
Barclays Official
**CALIFORNIA
CODE OF
REGULATIONS**

Title 4. Business Regulations

Complete Title

Vol. 5

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

REVISED EDITION

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TITLE 4. BUSINESS REGULATIONS

NOMENCLATURE CROSS-REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross-Reference Table for the new organizational headings used in this Title.)

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Division 1. Department of Alcoholic Beverage Control

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TITLE 4. BUSINESS REGULATIONS

Division 1. Department of Alcoholic Beverage Control

(Originally Printed 3-22-45)

Article 1. Violation of Rules

§ 1. Violation of Rules.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

- Chapter 1 (§§ 1 to 142, inclusive), originally published 3-22-45 (Title 4).
- Amendment to Section 1 filed 11-15-45 as an emergency; effective upon filing (Register 2).
- Repealer of NOTE and new NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
- Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

Article 2. Records

§ 4. General.

NOTE: Authority cited for repealer filed 3-18-55: Sections 24432, 25750, 25752, Business and Professions Code, and Section 22, Article XX, California Constitution. Issuing agency: State Board of Equalization.

HISTORY

- Amendment filed 11-15-45 as an emergency; effective upon filing (Register 2).
- Repealer filed 3-18-55; effective 30th day thereafter (Register 55, No. 4).

§ 6. Price of License Acquisition.

NOTE: Authority cited: Section 25750, Business and Professions Code, and Section 22 of Article XX, California Constitution.

HISTORY

- New Section 6 filed 10-8-64 as an emergency; effective upon filing (Register 64, No. 20).
- Repealer filed 9-24-65; effective thirtieth day thereafter (Register 65, No. 18).

§ 7. Retail Distilled Spirits Licensees: Records.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Sections 23334 and 25752, Business and Professions Code.

HISTORY

- Amendment filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46). For prior history, see Register 64, No. 8.
- Amendment filed 8-6-70; designated effective 9-8-70 (Register 70, No. 32).
- Repealer of NOTE and new NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
- Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 8. Common Carriers.

(a) Definition. For the purposes of Section 23661 of the Alcoholic Beverage Control Act, "common carriers" are steamship companies and railroads, or any persons who hold themselves out to the general public to transport in interstate or foreign commerce any class or classes of passengers or property, or both, for compensation by air or highway, who actually engage in such transportation, and who hold an interstate alcoholic beverage transporter's permit as required by Section 32109 of the Revenue and Taxation Code.

Persons who transport only property owned or consigned to themselves shall not be deemed to be common carriers within the meaning of this section.

(b) Receipts and Delivery Reports.

Licensed importers and customs brokers shall furnish common carrier and holders of interstate alcoholic beverage transporter's permits, transporting alcoholic beverages into this State from without this State for delivery or use within this State, a receipt for the alcoholic beverages so transported and delivered. This receipt must show the following information:

Name of the shipper, point of origin, name of importer or customs broker to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipments. In the case of rail shipments, the receipt shall show also the car number and in the case of water shipments, the receipt shall show also the name of the vessel and the number of the steamship bill of lading.

A copy of the freight bill or other shipping document containing all of this information shall be deemed to be compliance with this requirement. A copy of such receipt must be retained by the importer or customs broker to whom delivery is made. With respect to pool shipments in which more than one licensed importer or customs broker participates, each participating importer or customs broker shall retain a copy of the receipt. NOTE: Authority cited: Sections 23661, 25750 and 25752, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

- New section filed 4-4-58; designated effective 5-15-58 (Register 58, No. 6).

§ 9. Winegrower's or Wine Blender's Annual Report.

Every licensed winegrower or wine blender shall report to the Department of Alcoholic Beverage Control his total gallonage of wine produced or blended for the 12-month period ending June 30th of each year. Such report shall be submitted before August 1st of each year on departmental Form ABC-261.

NOTE: Authority cited: Sections 23320, 23327, 25750 and 25752, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

- New section filed 4-4-58; designated effective 5-15-58 (Register 58, No. 6).
- Amendment filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46).

§ 10. Beer Wholesalers' Records.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

- New section filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46).
- Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 12. Beer and Wine.

NOTE: Additional authority cited for amendment filed 10-18-49: Section 22, Article XX, California Constitution and Section 38a, Alcoholic Beverage Control Act. Additional authority cited for repealer filed 3-18-55: Sections 24432, 25750 and 25752, Business and Professions Code. Issuing agency: State Board of Equalization.

HISTORY

- Originally published 3-22-45 (Title 4).
- Amendment filed 11-15-45 as an emergency (Register 2).
- Amendment filed 10-18-49 as an emergency designated to be effective 11-1-49 (Register 18, No. 3).
- Repealer filed 3-18-55; effective thirtieth day thereafter (Register 55, No. 4).

§ 14. Beer Sold to Instrumentalities of the Armed Forces.

NOTE: Authority cited: Sections 6a, 38 and 38a of the Alcoholic Beverage Control Act. Additional authority cited, Sections 24440 and 25750, Business and Professions Code. Additional authority cited for repealer filed 3-18-55: Section 25752, Business and Professions Code. Issuing agency: State Board of Equalization.

HISTORY

- New section filed 6-15-51 as an emergency; effective upon filing (Register 24, No. 5).
- Amendment filed 9-25-53 as an emergency; designated effective 10-1-53 (Register 53, No. 17).

3. Repealer filed 3–18–55; effective thirtieth day thereafter (Register 55, No. 4).

Article 4. Invoices

§ 17. Contents of Sales Invoices and Retail Delivery Orders.

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved. Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the department and shall not be commingled with invoices covering only commodities other than alcoholic beverages.

Each sales invoice shall have printed thereon the name and address of the seller and shall show the following information:

(1) Name and address of the purchaser. The name of the purchaser may be shown as the name of the licensee or the trade name under which the purchaser operates, or both the name of said licensee and the trade name under which he operates. When the trade name only of said licensee is used on the invoice, the vendor shall keep a record on his licensed premises showing the name of the licensee as set forth on the license certificate issued by the department.

Any licensee who is authorized to sell and who does sell to another licensee shall keep a record showing the name or names of the person or persons to whom the license of the purchasing licensee is issued. These records shall be kept for a period of three years.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.

(4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.

(5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.

(6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.

(b) Invoices covering sales of wine in internal bond by a wine grower to another wine grower must also show that delivery was made "in bond."

(c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: "No state tax—not for beverage use."

(d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: "Sold for export."

(e) No alcoholic beverage shall leave the premises of an off-sale licensee for delivery to a consumer, except pursuant to an order previously received by such licensee. Such alcoholic beverages shall be accompanied by a delivery order, which order must state the quantity, brand, proof, and price of such alcoholic beverages, and the name and address of the consumer purchaser, and shall have printed or stamped thereon the name and address of such off-sale licensee. A copy of such order shall be kept on file by the off-sale licensee for a period of two years after the date of delivery.

NOTE: Authority cited: Sections 25750 and 25752, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. Amendment of Subsection (a)(1) filed 5–7–74; designated effective 6–10–74 (Register 74, No. 19). For prior history, see Register 56, No. 19.

2. Amendment of NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25).

§ 18. Return of Distilled Spirits by Retailer; Application for Approval by Department; Exceptions.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Sections 23104.3 and 25503, Business and Professions Code.

HISTORY

1. New section filed 10–2–56; designated effective 12–1–56 (Register 56, No. 19).
2. Amendment filed 8–10–73; designated effective 9–12–73 (Register 73, No. 32).
3. Repealer of NOTE and new NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25).
4. Repealer filed 6–4–84; effective thirtieth day thereafter (Register 84, No. 23).

§ 19. Return of Wine by Retailer; Application for Approval by Department; Records.

NOTE: Authority cited: Sections 24879, 24881, 25750 and 25752, Business and Professions Code and Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 12–6–68; designated effective 1–8–69 (Register 68, No. 46).
2. Repealer filed 11–6–96; operative 12–6–96 (Register 96, No. 45).

Article 5. Inventories

§ 27. Retail Store—Qualifications.

"Retail store" means premises which hold only an off-sale beer and wine or an off-sale general license. Premises may be licensed as a retail store provided the licensee at such premises complies with the following provisions:

(a) Alcoholic beverages shall be sold only in the original package for consumption off the premises.

(b) Alcoholic beverages offered for sale shall be displayed and available for convenient inspection and purchase by the general public. The licensee shall not refuse to sell, for immediate delivery, to qualified purchasers any item of alcoholic beverages on display for sale.

(c) All alcoholic beverages sold shall be delivered from the licensed premises, and shall not be delivered from a supply of alcoholic beverages stored off the licensed premises.

(d) The licensee may accept telephone orders for the purchase of alcoholic beverages only during the hours in which the retail store is open to the general public.

NOTE: Authority cited: Sections 23025, 23300, 23355, 23393, and 23394, Business and Professions Code.

HISTORY

1. New section filed 8–16–72; designated effective 9–20–72 (Register 72, No. 34). For history of former section, see Register 57, No. 7.

§ 28. Distilled Spirits Wholesalers: Qualifications.

No distilled spirits wholesaler's license shall be held by any person who does not meet the following qualifications in connection with his premises licensed as his principal place of business:

(a) Maintains warehouse space either owned or leased by him or dedicated to his use in a public warehouse and such space is sufficient to store at one time either

(1) A stock of distilled spirits equal to 10 percent or more of his annual case volume of distilled spirits sales to retailers within this State, or,

(2) A stock of distilled spirits whose cost of acquisition is one hundred thousand dollars or more.

(b) Maintains at all times in his warehouse either owned or leased by him or in space dedicated to his use in a public warehouse a stock of distilled spirits consisting of either

(1) Not less than 5 percent of his annual sales to retailers within this State, or,

(2) Whose cost of acquisition is one hundred thousand dollars or more. The stock of distilled spirits herein required shall be:

(a) owned by him,

(b) not held on consignment,

(c) not acquired pursuant to a prior agreement to sell it to a specific licensee or licensees.

(c) Sells distilled spirits to retailers generally rather than a selected few retailers.

(1) A wholesaler who sells to 25 percent of the retailers in the county wherein his wholesale licensed premises are located, or a wholesaler whose total volume of sales of distilled spirits to retailers during any

12-month period consists of 50 percent or more of individual sales in quantities of 10 cases or less shall be conclusively presumed to be selling to retailers generally.

A rectifier who purchases any distilled spirits in packages containing one gallon or less and sells such distilled spirits to retail licensees shall comply with the provisions of this rule.

NOTE: Authority cited: Sections 23778, 23779, 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 10-2-56; designated effective 6-1-57 (Register 56, No. 19).
2. Amendment filed 2-8-72; designated effective 3-10-72 (Register 72, No. 7).
3. Amendment to NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).

§ 28.1. Distilled Spirits Rectifier—Qualifications.

HISTORY

1. Repealer filed 4-13-73; designated effective 5-18-73 (Register 73, No. 15). For prior history, See Register 72, No. 34.

§ 29. Storage by Retailer on Wholesaler's Premises.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New section filed 10-2-56; designated effective 12-1-56 (Register 56, No. 19).
2. Amendment to NOTE filed 6-18-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

Article 6. Reports

§ 30. Customs Brokers.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. Repealer of subsection (b) filed 5-9-57 as an emergency; effective thirtieth day thereafter (Register 57, No. 7). For prior history, see Register 55, No. 4.
2. Section retitled and amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 31. Federal Basic Permit Information.

NOTE: Authority cited: Sections 23320, 23950, 23958, 25750, 25752, Business and Professions Code, and Section 22 of Article XX, California Constitution.

HISTORY

1. New section filed 9-5-58; designated effective 10-10-58 (Register 58, No. 16).
2. Amendment filed 1-22-75; designated effective 2-27-75 (Register 75, No. 4).
3. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

§ 32. Change of Address of Holder of Certificate of Compliance.

NOTE: Authority cited: Sections 23671 and 25750, Business and Professions Code, and Section 22 of Article XX, California Constitution.

HISTORY

1. New section filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46).
2. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

Article 7. Losses and Allowances

§ 35. Losses and Allowances.

NOTE: Additional authority cited for amendment filed 3-1-50: Sections 23b, 26, 38 and 38a of the Alcoholic Beverage Control Act. Additional authority cited for repealer filed 3-18-55: Sections 24432, 25750 and 25752, Business and Professions Code. Issuing agency: State Board of Equalization.

HISTORY

1. Repealer filed 3-18-55; effective thirtieth day thereafter (Register 55, No. 4). For prior history, see Register 19, No. 4.

§ 36. Return of Damaged Alcoholic Beverages.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New section filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46).
2. Repealer of subsection (c) filed 7-19-73; designated effective 8-20-73 (Register 73, No. 29).

3. Repealer filed 6-4-84; effective thirtieth day there after (Register 84, No. 23).

Article 8. Classification of Particular Beverages

§ 49. Federal Strip Stamps.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Amendment filed 11-15-45 as an emergency (Register 2).
3. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

Article 9. Samples

§ 52. Restrictions on Giving.

(a) Samples.

(1) Samples of alcoholic beverages may be given only to licensees or employees or agents of licensees who are eligible to purchase alcoholic beverages of the kind given as samples, and samples may be given only to licensees who have not previously purchased the particular product, or to their employees or agents, for the sole purpose of permitting them to determine the grade, type, and quality of the alcoholic beverages.

(2) Such samples shall not exceed in quantity the following: wine, one quart or one liter when bottled; beer, one bottle or can opened on the premises of the licensee; and distilled spirits, 500 milliliters, or in the smallest size regularly marketed where the brand is not bottled in 500 milliliters, containers. The limit herein stated as to wine samples shall not apply to bulk samples submitted for processing purposes.

(3) Only one sample of each grade, type, or quality shall be given at any one time as to wine and distilled spirits.

(4) Each sample of distilled spirits and wine shall have stamped on its brand label the words: "Sample—not for sale," in letters not less than one-fourth inch in height.

(5) A distilled spirits manufacturer, distilled spirits manufacturer's agent, or rectifier may supply such samples to his own salesmen or to the salesmen of a licensed wholesaler.

(6) Licensees who are authorized to give away samples of any type of alcoholic beverage shall keep a record of all samples so given away. Such record shall be completed within seven calendar days following removal from stock, or from the licensed premises, and the record shall state: the brand, type of alcoholic beverage and size of the sample package; the name of the salesman who removes the sample package and the date of such removal; the name of the licensee to whom any sample is given, together with the brand, type of alcoholic beverage, and quantity thereof, and the date the sample is given. Such records of samples shall be retained for a period of three years.

(b) Gifts. Licensees or officers, agents or employees of licensees may make gifts of alcoholic beverages to nonlicensees provided such gifts are not made in connection with the sale of an alcoholic beverage.

NOTE: Authority cited: Sections 23025, 23386, 25750 and 25752, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Sections 23025, 23386 and 25752, Business and Professions Code.

HISTORY

1. Amendment of subsection (a)(6) filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46). For prior history, see Register 55, No. 4.
2. Amendment of subsection (a) (2) filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).

§ 53. Samples Used in Winetastings.

A winetasting is a presentation of samples of one or more wines, representing one or more wineries or industry labels, to a group of consumers for the purpose of acquainting the tasters with the characteristics of the wine or wines tasted.

Licensees may engage in winetasting activities only as set forth in this rule. In addition to furnishing wines as provided herein, licensees may supply small amounts of bread, crackers, cheeses or nuts to clear the taste

buds of the participants between successive samples of wine during a winetasting.

(a) Winetastings Sponsored by Winegrowers and Wine Blenders.

(1) Winetastings may be conducted without charge or for a fee for the public on a premises licensed with a winegrower's license, duplicate winegrower's license, or California winegrower's agent's license, and on a premises licensed on or before February 2, 1968, with a wine blender's license, provided, however, that no winetasting shall be held on that portion of a winegrower's or duplicate winegrower's premises which is licensed with a retail license. Wine may be offered for tastings by such licensees as follows:

(A) Only wine which was produced or bottled by a winegrower, or was produced and bottled for such winegrower, may be offered for tastings by such winegrower. In addition, however, any winegrower who, prior to July 1, 1970, had, at his premises of production, sold to consumers for consumption off the premises domestic wine other than wine which was produced or bottled by, or produced and packaged for such winegrower, and which was not sold under a brand or trade name owned by such winegrower, and who had, prior to July 1, 1970, conducted winetastings of such domestic wine at his licensed premises, may continue to conduct such winetastings at his premises of production; and any winegrower who was licensed as such prior to July 1, 1954, and who prior to July 1, 1970, had, at his licensed premises, sold to consumers for consumption off the premises, wine packaged for and imported by him, and who conducted winetastings of such imported wines at his licensed premises, may continue to conduct such winetasting activities at his premises of production.

(B) Only wine which was bottled by a wine blender or was produced and bottled for such wine blender, licensed on or before February 2, 1968, may be offered for tastings by such wine blender.

(C) A California winegrower's agent may conduct winetastings for the winegrower for whom he acts as agent under the same conditions as the winegrower could himself.

(2) Wine blenders, licensed on or before February 2, 1968, winegrowers, and California winegrower's agents may conduct winetastings at unlicensed premises, provided, however, that the tasting shall be only by invitation of the wine blender, winegrower, or California winegrower's agent involved; that there shall be no charge or donation made either for the wine served or for admission to the premises; and that the premises shall not be open to the general public during the time that wine is served, consumed, or otherwise disposed of. Only wine which was produced or bottled by such winegrower, or was produced or bottled by the principal of such California winegrower's agent, or was bottled by such wine blender, or was produced and bottled for such winegrower, for the principal of such California winegrower's agent, or for such wine blender may be offered for tastings off a licensed premises. All wine which is not consumed at the tasting shall be retained by the licensee conducting the tasting.

(b) Winetastings Sponsored by Private Organizations. Winegrowers, California winegrower's agents, and wine blenders licensed on or before February 2, 1968, may furnish wine which is produced or bottled by such winegrower or the principal of a California winegrower's agent, or bottled by such wine blender; or is produced and bottled for such winegrower, for the principal of such California winegrower's agent, or for such wine blender; and may conduct winetastings which are sponsored by a bona fide charitable, fraternal, political, religious, trade, service, or similar private organization, where all of the following conditions shall prevail:

- (1) The sponsor shall be a nonprofit organization.
- (2) Attendance shall be limited to members of the sponsoring organization and their invited guests.
- (3) No charge or donation shall be made either for the wine served or for admission to the premises.
- (4) There shall be no advertising or public announcements of the event as a winetasting, and the general public shall not be invited.
- (5) No wine shall be sold, and no sales or orders solicited, nor shall or-

der blanks be placed in or about the premises. Brochures describing wines and their prices may be distributed, provided that they are not suitable for use as order blanks. No wine may be given as a gift, nor as a prize to be removed from the premises.

(6) Winetastings sponsored by private organizations may be held on unlicensed premises. They may also be held on premises regularly licensed with an on-sale general or on-sale beer and wine license, provided that the tastings are held in a banquet room or other portion of the premises which is completely separated from that portion of the premises where the sale of alcoholic beverages is being made; that no consumption of other alcoholic beverages is permitted; and that the retail licensee has surrendered the privileges of his license for the period the winetasting is being conducted on that portion of the retail premises in which the winetasting will take place, on a form provided by the department.

(c) Winetastings Sponsored by Foreign Consulates or Commercial Attachés. A licensed importer of wines may donate wines for the purpose of winetastings to be conducted by the consular service or commercial attaché of the country of origin of the wine donated, but may not otherwise participate in the winetasting, provided:

- (1) Admission to the tasting shall be by invitation only.
- (2) There shall be no advertising or announcement of the event as a tasting to the general public, and the general public shall not be invited.
- (3) No wine shall be sold, and no sales or orders solicited, nor shall order blanks be placed in or about the premises. Brochures describing wines and their prices may be distributed, provided they are not suitable for use as order blanks.

(4) Winetastings conducted by foreign consulates or commercial attachés may be held on unlicensed premises. They may also be held on premises regularly licensed with an on-sale general or on-sale beer and wine license, provided that the tastings are held in a banquet room or other portion of the premises which is completely separated from that portion of the licensed premises to which the public is admitted; that they are held in a portion of the premises where no sale of alcoholic beverages is being made, and no consumption of other alcoholic beverages is permitted; and that they are held in that portion of the retail premises for which the retailer has surrendered the licensed privileges for the period the winetasting is being conducted, on a form provided by the department.

(d) Club Licensees. No licensee shall furnish or donate wines for tastings to be held on a premises licensed by the department with any type of club license.

(e) Retail Licensees. No winetasting shall be given for the benefit of any retail licensee, and no retail licensee shall participate in a winetasting directly or indirectly, except as provided in this rule.

(f) Records. Licensees who are authorized to furnish or donate wines for winetastings shall keep a record of all wine so furnished or donated, as follows:

(1) Records of wine actually used and consumed at winetastings conducted by winegrowers, California winegrower's agents, or wine blenders shall include the date of the tasting, the name and address of the licensee, the address of the tasting if not conducted on the licensee's premises, and the brand, class, and type, and the quantity of each wine used.

(2) Records of wine furnished by licensees to private organizations, foreign consulates, or commercial attachés for winetastings shall include the date of the tasting, the name and address of the licensee, the name of the sponsoring organization, consulate or commercial attaché, the address of the tasting, and the brand, class and type, and quantity of each wine furnished.

(3) Such records of samples of wine used for winetasting purposes shall be retained for a period of three years.

(g) Exceptions.

(1) Nothing in this rule shall prevent the holder of any license which permits the sale and consumption of wine on the premises from holding a winetasting of wines legally acquired, provided the on-sale licensee shall charge for the wines presented in accordance with law.

(2) An organization holding a temporary wine license may accept donations, charge admissions, and otherwise make charges for wine to be served at a winetasting, and may advertise such events, which may be open to the public. A winegrower or California winegrower's agent may give wine to such a temporary licensee only if such temporary licensee is a nonprofit corporation or association exempt from the payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States. Any other holder of a temporary wine license shall purchase all wines. Wine blenders, licensed on or before February 2, 1968, winegrowers and California winegrower's agents may assist the holder of a temporary wine license in conducting a winetasting.

(3) No student organization, college fraternity or sorority shall sponsor a winetasting.

NOTE: Authority cited: Sections 23355, 23356.1, 13356.9, 23373, 23386, 23390.5 and 25750, Business and Professions Code and Section 22, Article XX, California Constitution. Reference: Sections 23355, 23356.1, 23356.9, 23373, 23386 and 23390.5, Business and Professions Code.

HISTORY

1. New section filed 2-23-73; designated effective 3-26-73 (Register 73, No. 8).
2. Amendment filed 5-7-74; designated effective 6-10-74 (Register 74, No. 19).
3. Amendment of subsection (h)(2) filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).
4. Amendment of subsections (a)(1) and (b), repealer of subsection (f) and subsection redesignation filed 1-18-94; operative 2-17-94 (Register 94, No. 3).

§ 53.5. Samples Used in Beer Tastings.

A beer tasting is a presentation of samples of one or more beers, representing one or more beer manufacturers or industry labels, to a group of consumers for the purpose of acquainting the tasters with the characteristics of the beer or beers tasted.

Licensees may engage in beer tasting activities only as set forth in this rule. In addition to furnishing beers as provided herein, licensees may supply small amounts of bread, crackers, pretzels, cheeses or nuts to clear the taste buds of the participants between successive samples of beer during a beer tasting.

(a) Beer tastings Sponsored by Beer Manufacturer Licensees. Beer tastings may be conducted without charge or for a fee for the public on a premises licensed with a beer manufacturer's license or duplicate beer manufacturer's license, provided, however, that no beer tasting shall be held on that portion of a beer manufacturer's or duplicate beer manufacturer's premises which is licensed with a retail license. Beer may be offered for tastings by such licensees as follows:

(1) Only beer which was produced or bottled by the beer manufacturer or was produced and bottled for such beer manufacturer may be offered for tastings by such beer manufacturer.

(b) Beer tastings Sponsored by Private Organizations. Licensed beer manufacturers or out-of-state beer manufacturer's certificate holders may furnish beer which is produced or bottled by such beer manufacturer or out-of-state beer manufacturer's certificate holder; or is produced and bottled for such beer manufacturer or out-of-state beer manufacturer's certificate holder; may conduct beer tastings which are sponsored by a bona fide charitable, fraternal, political, religious, trade, service, or similar private organization, where all of the following conditions shall prevail:

(1) The sponsor shall be a nonprofit organization.

(2) Attendance shall be limited to persons affiliated with the sponsor. "Persons affiliated with the sponsor" means directors, officers, members, employees and volunteers of the sponsoring organization including up to three invited guests of each such person.

(3) No charge or donation shall be made either for the beer served or for admission to the premises.

(4) There shall be no advertising or public announcements of the event as a beer tasting, and the general public shall not be invited.

(5) No beer shall be sold, and no sales or orders solicited, nor shall order blanks be placed in or about the premises. Brochures describing beers and their prices may be distributed, provided that they are not suitable

for use as order blanks. No beer may be given as a gift, nor as a prize to be removed from the premises.

(6) Beer tastings sponsored by private organizations may be held on unlicensed premises. They may also be held on premises regularly licensed with an on-sale general, on-sale beer and wine or on-sale beer license, provided that the tastings are held in a banquet room or other portion of the premises which is completely separated from that portion of the premises where the sale of alcoholic beverages is being made; that no consumption of other alcoholic beverages is permitted; and that the retail licensee has surrendered the privileges of his license for the period the beer tasting is being conducted on that portion of the retail premises in which the beer tasting will take place, on a form provided by the department. All beer which is not consumed at the tasting shall be retained by the licensee or certificate holder conducting the tasting.

(c) Club Licensees. No licensee shall furnish or donate beers for tastings to be held on a premises licensed by the department with any type of club license.

(d) Retail Licensees. No beer tasting shall be given for the benefit of any retail licensee, and no retail licensee shall participate in a beer tasting directly or indirectly, except as provided in this rule.

(e) Records. Licensees who are authorized to furnish or donate beers for beer tastings shall keep a record of all beer so furnished or donated, as follows:

(1) Records of beer actually used and consumed at beer tastings conducted by licensed beer manufacturer or out-of-state beer manufacturer's certificate holder shall include the date of the tasting, the name and address of the licensee or certificate holder, the address of the tasting if not conducted on the licensee's premises, and the brand, class, and type, and the quantity of each beer used.

(2) Records of beer furnished by licensees to private organizations for beer tastings shall include the date of the tasting, the name and address of the licensee, the name of the sponsoring organization, the address of the tasting, and the brand, class and type, and quantity of each beer furnished.

(3) Such records of samples of beer used for beer tasting purposes shall be retained for a period of three years.

(f) Exceptions.

(1) Nothing in this rule shall prevent the holder of any license which permits the sale and consumption of beer on the premises from holding a beer tasting of beers legally acquired, provided the on-sale licensee shall charge for the beers presented in accordance with law.

(2) An organization holding a temporary beer license may accept donations, charge admissions, and otherwise make charges for beer to be served at a beer tasting, and may advertise such events, which may be open to the public. A licensed beer manufacturer or out-of-state beer manufacturer's certificate holder may give beer to such a temporary licensee only if such temporary licensee is a nonprofit corporation or association exempt from the payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States. Any other holder of a temporary license shall purchase all beers. Licensed beer manufacturers or out-of-state beer manufacturer's certificate holders may assist the holder of a temporary beer license in conducting a beer tasting.

(3) No student organization, college fraternity or sorority shall sponsor a beer tasting.

NOTE: Authority cited: Section 22, Article XX, California Constitution; and Sections 23357.3 and 25750, Business and Professions Code. Reference: Sections 23357.3 and 25750, Business and Professions Code.

HISTORY

1. New section filed 2-8-94; operative 3-10-94 (Register 94, No. 6).

Article 10. Sales for Export

§ 54. Export Sales.

Manufacturers, winegrowers, rectifiers, wholesalers, manufacturer's agents, and importers may sell alcoholic beverages specified in their li-

censes to unlicensed persons (including aircraft, fishing vessels and commercial passenger or freight vessels) who take delivery thereof within this State for delivery or use without this State.

Where the sale is made without the payment of California excise tax, export or actual removal from this State must be accomplished within 90 days from the date of the delivery within this State, and may only be accomplished by one of the following methods:

(a) If in bond, then under the continuous supervision of the United States Customs or United States Internal Revenue authorities until removal from this State has been effected.

(b) In private vehicles owned or operated by out-of-state purchasers who hold an export identification permit issued by the State Board of Equalization pursuant to Rule 2563, Subchapter 6, Chapter 2, Title 18, California Administrative Code.

(c) By common carrier.

Sales of alcoholic beverages to persons operating commercial fishing vessels, private freight and/or passenger-carrying vessels, or to commercial aircraft, for use as ships or aircraft stores outside this State, or upon the high seas, may be made only pursuant to a written order for the purchase of the alcoholic beverages specified in the order. Such purchase order must be signed by the captain of a commercial fishing boat or private freight and/or passenger-carrying vessel or the pilot of the aircraft, or by a duly authorized agent of the owner of the aircraft authorized in writing to sign such purchase orders. All such purchase orders shall contain an acknowledgment that the alcoholic beverages are for use only as ships or aircraft stores outside this State or upon the high seas.

All alcoholic beverages sold and delivered, California tax free within this State, which are intended for ultimate delivery and use outside this State within 90 days, may, until exported or removed from this State, be stored only in bonded or licensed public warehouses and in private warehouses. Such warehouses shall keep and maintain for a period of three years records showing any change in possession of such alcoholic beverages, and shall upon demand make such records available to the Department of Alcoholic Beverage Control, the State Board of Equalization, and to the licensed California seller of such alcoholic beverages.

NOTE: Authority cited: Sections 23107, 23108, 23387 and 25750, Business and Professions Code; Section 22 of Article XX, California Constitution.

HISTORY

1. New section filed 4-7-58; designated effective 5-15-58 (Register 58, No. 6). For history of former Section 54, see Register 55, No. 4.
2. Amendment filed 10-25-63; effective thirtieth day thereafter (Register 63, No. 19).
3. Amendment filed 11-1-63, as an emergency; designated effective 11-24-63. Certificate of Compliance included (Register 63, No. 19).
4. Amendment filed 8-6-70; designated effective 9-8-70 (Register 70, No. 32).

Article 11. Applications and Licenses

§ 55. On-Sale General License for Seasonal Business.

NOTE: Authority cited: Sections 23820 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 23038, 23320, 23396, 23399, 23826.8, 24040, 24042, 24044, 24045, 24048, 24048.1, 24048.2, 24070, 24070.1, 24071, 24072, 24073-24076 and 24082, Business and Professions Code.

HISTORY

1. New subsection (e) filed 1-12-79 as an emergency; effective upon filing (Register 79, No. 2). For prior history, see Registers 63, No. 19; 73, No. 29; 73, No. 32; 77, No. 25; and 78, No. 14.
2. Certificate of Compliance filed 4-4-79 (Register 79, No. 14).
3. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

§ 55.1. Applicant/Licensee Verification of Eligibility; Limitations on Alcoholic Beverage Licenses for Aliens.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, disability, or national origin of the individual applying for the public benefit. This section shall apply to any natural person renewing or applying for the entire direct in-

terest in a license issued by the Department of Alcoholic Beverage Control.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Pub. L. No. 104-193 (PRWORA)), (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C. § 1101 *et seq.*), or aliens paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)), for less than one year, are not eligible to receive any license issued pursuant to the ABC Act, BPC § 23000 *et seq.*

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) of the PRWORA (8 U.S.C. § 1641(b)), any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 *et seq.*).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) (as in effect immediately before the effective date of Section 307 of division C of Public Law 104-208) or Section 241(b)(3) of such Act (8 U.S.C. § 1251(b)(3)) (as amended by Section 305(a) of division C of Public Law 104-208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C. § 1153(a)(7)) See editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment."

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note)).

(8) An alien who, under Section 431(c)(1) of the PRWORA (8 U.S.C. § 1641(c)(1)), meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detection, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Director of the Department of Alcoholic Beverage Control. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce ac-

tions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has a petition that has been approved or has a petition pending which sets forth a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv)),

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(ii) or (iii)),

3. suspension of deportation and adjustment of status pursuant to section 244(a)(3) of the INA (8 U.S.C. sec. 1254) as in effect prior to April 1, 1997 [Pub.L. 104-208, sec. 501 (effective September 30, 1996, pursuant to sec. 591); Pub.L. 104-208, sec. 304 (effective April 1, 1997, pursuant to sec. 309); Pub.L. 105-33, sec. 5581 (effective pursuant to sec. 5582)] (incorrectly codified as "cancellation of removal under section 240A of such Act [8 USCS sec. 1229b] (as in effect prior to April 1, 1997),

4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)), or

5. cancellation of removal pursuant to section 240A(b)(2) of the INA (8 U.S.C. § 1229b(b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who, under Section 431(c)(2) of the PRWORA (8 U.S.C. § 1641(c)(2)), meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Director of the Department of Alcoholic Beverage Control. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (c)(8)(C) above.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B) and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detection, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Director of the Department of Alcoholic Beverage Control. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c)(8)(C) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA (8 U.S.C. § 1101(a)(15)).

(e) For purposes of establishing eligibility for a license issued by the Department of Alcoholic Beverage Control pursuant to the ABC Act (B.P.C. § 2300 *et seq.*), all of the following must be met:

(1) The applicant must declare himself or herself to be a citizen of the United States or a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)). The alien shall declare that status through use of the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits," Form ABC-69.

(2) The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the applicant's declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the alien's declared status.

(3) The applicant must complete and sign Form ABC-69.

(4) Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents shall be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Department shall request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for the license issued by the Department of Alcoholic Beverage Control pursuant to the ABC Act.

(6) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien, a non-immigrant or alien paroled for less than one year under section 212(d)(5) of the INA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, a non-immigrant or alien paroled for less than one year under section 212(d)(5) of the INA, benefits shall be denied and the applicant notified pursuant to the ABC Act regular procedures of his or her rights to appeal the denial of benefits.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the Department of Alcoholic Beverage Control reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

(g) Provided that the alien has completed and signed Form ABC-69, revised 2/98, under penalty of perjury, eligibility for renewal of a license shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

(h) Pursuant to Section 432(d) of the PRWORA (8 U.S.C. § 1642(d)), a nonprofit charitable organization that provides federal, state or local public benefits shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

(i) Any applicant who is determined to be ineligible pursuant to subsection (b) and (e) or who was made eligible for an alcoholic beverage license whose license is terminated, suspended, or reduced pursuant to subsections (b) and (e), is entitled to a hearing, pursuant to Business and Professions Code section 24300.

(j) Failure to comply with this section shall be cause for revocation of the license held contrary to these provisions.

NOTE: Authority cited: Section 22, California Constitution, Article XX; and Sections 23950, 23952, 23958 and 25750, Business and Professions Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642.

HISTORY

1. New section filed 3-2-98 as an emergency; operative 3-2-98 (Register 98, No. 10). A Certificate of Compliance must be transmitted to OAL by 6-30-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 4).
3. New section filed 1-19-99; operative 2-18-99 (Register 99, No. 4).

§ 55.5. On-Sale Licenses for Boats.

On-sale beer and wine licenses and on-sale general licenses may be issued to the owner, lessee or operator of a boat carrying passengers for hire, and alcoholic beverages may be served on such vessels when operated or navigated by a person duly licensed by the United States Coast Guard; or on-sale beer and wine licenses and on-sale general licenses may be issued to qualified persons who operate as concessionaires on such publicly or privately owned, leased or operated boats carrying passengers for hire.

(a) Applicants must designate a primary home port for the boat, such primary home port address being the address as shown on the application for the license. The primary home port means the principal place for embarkation or debarkation of passengers, or the loading or unloading for supplies, and is normally used for the overnight berthing of the boat.

(b) Posting of notice of intention and publication as required by Sections 23985 and 23986 of the Business and Professions Code apply to on-sale beer and wine and on-sale general licenses for boats. Notice of intention to engage in the sale of alcoholic beverages shall be posted in a conspicuous place at the entrance of the boat dock or landing at the primary home port, and must also be posted in a conspicuous place on the boat unless application is made pursuant to Section 24044 of said Code, in which case posting of the boat is unnecessary.

(c) On-sale beer and wine and on-sale general licenses for boats shall, at the request of the licensee or applicant, be issued pursuant to the provisions of Section 23800, subject to the following conditions:

(1) There shall be no sales of alcoholic beverages while the boat is at any dock, except sales to passengers one-half hour prior to departing on scheduled trips or charters, and one-half hour after returning from designated commercial docks pursuant to (A) or (B).

(A) In addition to its primary home port dock, a licensee may designate up to ten (10) commercial docks each year at which it intends to embark or debark passengers.

(B) A licensee may designate any public commercial dock within the state. Such designation shall be in writing.

(C) For purposes of these regulations, the term "commercial dock" shall mean a dock generally used by vessels carrying passengers for hire, for the embarkation or debarkation of passengers, or the loading or unloading of supplies.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Section 23397, Business and Professions Code.

HISTORY

1. New section filed 6-18-70; designated effective 7-20-70 (Register 70, No. 25).
2. Amendment of introductory paragraph filed 10-1-70 as an emergency; effective upon filing (Register 70, No. 40).
3. Certificate of Compliance—section 11422.1, Gov. Code, filed 1-21-71 (Register 71, No. 4).
4. Amendment of introductory paragraph filed 1-21-71; designated effective 2-22-71 (Register 71, No. 4).

5. Amendment filed 8-23-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 35).

6. Amendment of subsection (c)(1) and new subsections (c)(1)(A)–(C) filed 1-27-94; operative 2-28-94 (Register 94, No. 4).

§ 56. On-Sale Beer License for Seasonal Business.

NOTE: Authority cited: Sections 23322, 23357, 23378, 23388, 23389, 23396 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Division 9 (Chapters 1–17), Business and Professions Code.

HISTORY

1. New subsection (e) filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6). For prior history, see Register 58, No. 6.
2. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

§ 57. Fingerprinting.

Every person who has management responsibilities or who has an ownership or financial interest in a licensed business, or a business to be licensed, shall at the request of the department be fingerprinted if they have not heretofore been so fingerprinted.

This requirement shall apply to all licensees and their spouses, applicants for licenses and their spouses, and in the case of corporations, to any person or persons and their spouses who own or control 10% or more of the corporate stock, the managing officers of the corporation, the chairman of the Board of Directors and a majority of the Board of Directors.

The provisions of this rule shall not apply to any bank or other financial institution whose financial interest constitutes a loan rather than an ownership interest.

[The next page is 7.]

NOTE: Authority cited: Sections 23950, 23958 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Division 9 (Chapters 1–17), Business and Professions Code.

HISTORY

1. Amendment filed 2–2–77; designated effective 3–7–77 (Register 77, No. 6). For prior history, see Register 58, No. 6.

§ 57.5. Manager Defined.

A person to whom a licensee has delegated discretionary powers to organize, direct, carry on or control the operations of a licensed business shall be deemed the manager thereof for purposes of applying Section 23788.5 of the Alcoholic Beverage Control Act. Authority to control one or more of the following functions shall be prima facie evidence that such a person is the manager of the licensed business:

- (a) To hire or separate employees.
- (b) To contract for the purchase of furniture, equipment or supplies other than the occasional replenishment of stock.
- (c) To disburse funds of the licensed business other than for the receipt of regularly replaced items of stock.
- (d) To make, or participate in making, policy decisions relative to operations of the licensed business.

NOTE: Authority cited: Sections 23001, 23788.5, 24200, and 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 10–25–63; effective thirtieth day thereafter (Register 63, No. 19).
2. Editorial correction to NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25).

§ 57.6. Qualifications of Manager.

(a) Any on-sale licensee who elects to operate his licensed premises through the employment of a manager may request the department to make a determination of the proposed manager's qualifications. Upon such request, the on-sale licensee shall produce the proposed manager at a District Office of the department for fingerprinting and investigation.

(b) Any on-sale licensee who employs a person in the capacity of manager shall notify the department in writing within fifteen (15) days of the effective date of this rule or within fifteen days of such employment, whichever occurs first. Within such 15-day period the on-sale licensee shall cause his manager to appear at a District Office of the department to have the manager's fingerprints taken, and to file an application for qualification as manager and furnish information necessary to establish whether the manager has the qualifications required of a holder of an on-sale license.

(c) When investigation indicates that any person employed as manager of premises operating under an on-sale license does not possess the qualifications required of the holder of an on-sale license, the department shall serve on the manager Notice of Disqualification of Manager and shall furnish a copy of said Notice to the holder of the on-sale license at the premises.

(d) Upon completion of its investigation pursuant to paragraph (a) or (b) of this rule, the department shall serve either Notice of Qualification of Manager or Notice of Disqualification of Manager on the manager or proposed manager. A copy of such Notice shall be furnished to the on-sale licensee who employs or proposes to employ the manager. Within fifteen (15) days after service of Notice of Disqualification of Manager, the manager or proposed manager upon whom served may petition the department for hearing thereon. The Notice of Disqualification of Manager shall advise the manager or proposed manager of his right to a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code, and upon petition for hearing the reasons set forth in the Notice of Disqualification of Manager shall become the "statement of issues" as that term is used in Section 11504 of the Government Code, and all provisions of said Section 11504 applicable to "statement of issues" shall be applicable to said Notice. In addition, all other provisions of Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code, applicable to "statement of issues" and proceedings initiated thereby, shall be

applicable to the Notice of Disqualification of Manager and proceedings initiated by the filing of petition for hearing thereon.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Sections 23001 and 23788.5, Business and Professions Code.

HISTORY

1. New section filed 4–14–69; designated effective 5–15–69 (Register 69, No. 16).

§ 57.7. Qualifications of Bona Fide Public Eating Place Lessee.

(a) Any bona fide public eating place licensee who elects to sublet the sale and service of meals, as provided for in Section 23787, shall within fifteen (15) days of such subletting notify the department in writing and request the department to make a determination of the lessee's, or proposed lessee's, qualifications. Within thirty (30) days of such subletting, the licensee shall furnish the department with a copy of the agreement between the licensee and lessee, and shall produce the lessee at a district office of the department to have the lessee's fingerprints taken and to file an application for qualification as lessee. The lessee shall furnish information to the department necessary to establish whether he has the qualifications required of a holder of an alcoholic beverage license.

(b) Upon completion of its investigation pursuant to paragraph (a) of this rule, the department shall serve either Notice of Qualification of Lessee or Notice of Disqualification of Lessee on the lessee, and a copy of such notice shall be mailed to the licensee. Within fifteen (15) days after service of Notice of Disqualification of Lessee, the lessee may petition the department for hearing thereon. The Notice of Disqualification of Lessee shall advise the lessee of his right to a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code, and upon petition for hearing the reasons set forth in the Notice of Disqualification of Lessee shall become the "Statement of Issues" as that term is used in Section 11504 of the Government Code, and all provisions of said Section 11504 applicable to "Statement of Issues" shall be applicable to said notice. In addition, all other provisions of Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code, applicable to "Statement of Issues" and proceedings initiated thereby, shall be applicable to the Notice of Disqualification of Lessee and proceedings initiated by the filing of petition for hearing thereon.

(c) When the department determines that a lessee is disqualified and that determination becomes final as provided for by law, the department shall notify the licensee in writing that he has 60 days in which to rescind or otherwise terminate the agreement and resume, or sublet to a qualified person, the sales and service of meals as required by Section 23038. The department may extend the above period for good cause. Failure to rescind the agreement within the prescribed period may be cause for disciplinary action by the department for the purpose of suspending or revoking the license. In any such disciplinary action, any findings of fact previously adopted by the department in connection with the lessee's qualifications shall be presumptive proof as to the issue of the lessee's qualifications.

(d) A licensee who has sublet the sale and service of meals as provided for in Section 23787 remains responsible for keeping the premises in compliance with Section 23038 and may not exercise the privileges of the license unless the premises are equipped with suitable kitchen facilities, maintained in a sanitary condition, and regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation.

(e) A licensee who has sublet the sale and service of the meals required by Section 23038 shall not also employ the lessee or his employees or agents to manage or direct the alcoholic beverage licensed business.

(f) Each license is issued to a specific person, and the privileges of such license are to be exercised by said person. A licensee who has sublet the sale and service of the meals required by Section 23038 shall not permit the lessee to participate or share in revenues resulting from the exercise of privileges granted by the license.

NOTE: Authority cited: Sections 23038, 23300, 23787 and 24040, Business and Professions Code.

HISTORY

1. New section filed 7–12–72; designated effective 8–14–72 (Register 72, No. 29).

§ 57.8. Qualifications of Convention Center, Exhibit Hall or Auditorium Bona Fide Public Eating Place Lessees.

(a) A bona fide public eating place licensee operating at a premises licensed pursuant to Section 23824 may from time to time at the request of the State of California, incorporated city, county, city and county or public corporation of the State of California which owns or leases the premises, sublease the sale and service of meals to a lessee or lessees. Within thirty (30) days of such subletting, the licensee shall furnish the department with a copy of the agreement between the licensee and lessee. The lessees or proposed lessees shall be persons who are holders of alcoholic beverage licenses or persons who shall be qualified as provided for in Rule 57.7 of these regulations.

(b) The State of California, incorporated city, county, or city and county or public corporation of the State of California which owns or leases the premises and the licensee may maintain a list of proposed lessees for the sale and service of meals who hold alcoholic beverage licenses or who have been qualified pursuant to Rule 57.7 to sell and serve meals, and the licensee shall furnish the department with such list and any additions or deletions from such list. The department may disqualify any person on the list as provided in Rule 57.7 (b) and (c) of these regulations. The licensee shall notify the department at least 10 days prior to the date on which any lessee on the list, or added to the list, is to first sell and serve meals.

(c) A licensee who has sublet the sale and service of meals as provided for in Section 23787 remains responsible for keeping the premises in compliance with Section 23038.1 and may not exercise the privileges of the license unless the premises are equipped with suitable kitchen facilities, maintained in a sanitary condition, and regularly and in a bona fide manner used and kept open for the serving of meals to groups of guests for compensation.

(d) A licensee who has sublet the sale and service of the meals required by Section 23038.1 shall not also employ the lessee or his employees or agents to manage or direct the alcoholic beverage licensed business.

(e) Each license is issued to a specific person, and the privileges of such license are to be exercised by said person. A licensee who has sublet the sale and service of the meals required by Section 23038.1 shall not permit the lessee to participate or share in revenues resulting from the exercise of privileges granted by the license.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22, Article XX, California Constitution. Reference: Sections 23038, 23038.1, 23300, 23787, 24040 and 25750, Business and Professions Code.

HISTORY

1. New section filed as an emergency 10–1–74; designated effective 10–4–74 (Register 74, No. 40).
2. Certificate of Compliance filed 1–22–75 (Register 75, No. 4).

§ 58. Applications by Married Persons.

(a) Where a business is the community property of husband and wife, an alcoholic beverage license may be issued or held either:

- (1) In the name of both husband and wife; or
- (2) In the name of either spouse, if it can be demonstrated by evidence satisfactory to the department that the unlicensed spouse is qualified and cannot participate in the operation of the business for reasons including, but not limited to, the following:

- (A) Physical disability;
- (B) Absence from the State for a prolonged period.

(b) Where a business is the separate property of a spouse, established by satisfactory proof to the department, an alcoholic beverage license may be issued in the spouse's name alone.

(c) The unlicensed spouse must have the qualifications required of a holder of a license unless the husband and wife are not living together and have not lived together for at least six months.

(d) The provisions of this rule shall apply to the ownership, by either spouse, of 10 percent or more of the stock of any corporation holding an alcoholic beverage license.

NOTE: Authority cited: Sections 23300, 23355, 23950, 23951, 23952, 23953, 23958, and 24040, Business and Professions Code.

HISTORY

1. New section filed 4–7–58; designated effective 5–15–58 (Register 58, No. 6). For history of former Section 58, see Register 10, No. 7.
2. Amendment filed 7–13–62; designated effective 8–15–62 (Register 62, No. 14).
3. Amendment filed 10–25–63; effective thirtieth day thereafter (Register 63, No. 19).
4. Amendment filed 8–16–72; designated effective 9–20–72 (Register 72, No. 34).

§ 59. Temporary Beer or Wine Licenses.

(a) A temporary beer license and/or a temporary wine license may be issued to a person making application therefor on behalf of an existing nonprofit organization, including a charitable, civic, cultural, fraternal, patriotic, political, religious, social or amateur sports organization, for the following purposes:

(1) sales to members or guests of members of the organization at the site of and during an organized picnic, social gathering, or similar function of the organization; or

(2) sales to the general public from a premises temporarily occupied at the site of and during a county fair, civic celebration or similar event, or at a designated premises and during a fund-raising event sponsored by a nonprofit charitable, civic, cultural, fraternal, patriotic, political, religious, or amateur sports organization.

(b) The alcoholic beverage specified on the license issued pursuant to subsection (a) of this rule may be delivered to the licensee within three days of the effective date of the license except as prohibited by Section 25633 of the Alcoholic Beverage Control Act. Upon a showing of good cause, the department may approve earlier delivery.

(c) The holder of a license issued under subsection (a) of this rule may sell the alcoholic beverage specified on the license from 6 a.m. on the first effective date of the license to 2 a.m. on the day following the last effective date of the license.

(d) A wholesaler may lend, sell or rent to the holder of a license issued pursuant to subsection (a) of this rule draft pumps, ice boxes, and other tapping accessories.

(e) The licenses mentioned in paragraph (a) above do not include off-sale privileges.

(f) A temporary beer license and/or a temporary wine license may be revoked summarily by the department if, in the opinion of the department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace, and morals of the people of the State.

NOTE: Authority cited: Section 22 of Article XX, California Constitution; and Sections 23001, 24045, 25500, 25504, 25600, 25633 and 25750, Business and Professions Code.

HISTORY

1. Amendment of subsection (a) filed 2–23–73 as an emergency; designated effective 3–26–73 (Register 73, No. 8). For prior history, see Register 58, No. 22.
2. Amendment of subsection (a) filed 7–19–73; designated effective 8–20–73 (Register 73, No. 29).
3. New subsection (f) and amendment of NOTE filed 1–27–94; operative 2–28–94 (Register 94, No. 4).

§ 59.1. Temporary Off-Sale Beer and Wine Licenses.

HISTORY

1. New section filed 10–19–62 as an emergency; effective upon filing (Register 62, No. 22).
2. Certificate of Compliance—Section 11422.1, Government Code, filed 11–27–62 (Register 62, No. 24).
3. Repealer filed 9–17–65 as an emergency; effective upon filing (Register 65, No. 17).
4. Certificate of Compliance—Section 11422.1, Government Code, filed 11–2–65 (Register 65, No. 21).

§ 59.5. Daily On-Sale General License.

(a) A daily on-sale general license may be issued to an organization qualified under Section 24045.1 of the Business and Professions Code upon application by an authorized representative. Such license authorizes the sale of distilled spirits, wine, and beer for consumption on premises approved by the department. The department may refuse the issuance of a daily on-sale general license to any proposed premises if such issuance could prove detrimental to the immediate neighborhood or could be injurious to the public welfare or morals.

(b) No one organization may be issued a daily on-sale general license for more than two consecutive days nor more than twelve days in one calendar year, unless the restriction is waived by the department for good cause.

(c) A daily on-sale general license may not be issued for use at premises permanently licensed unless the premises holds an on-sale general license and the applicant provides the department with a written notice from the on-sale general licensee which certifies that his license privileges will not be exercised in the separate room or rooms wherein the daily on-sale general license is to be issued; provided, however, that the department may, for good cause, issue a daily on-sale general license at any licensed premises where the permanent license has been temporarily surrendered.

(d) Beer or wine for resale by a daily on-sale general licensee may be purchased at either retail or wholesale within three days of the effective date of the license as provided by Section 25633 of the Business and Professions Code. Distilled spirits for resale by the daily on-sale general licensee must be purchased at retail from the holder of an off-sale general license. Unsold and unopened alcoholic beverages may be returned to the seller from whom purchased.

(e) The holder of a daily on-sale general license may sell alcoholic beverages from 6:00 a.m. on the first effective date of the license to 2:00 a.m. on the day following the last effective date of the license.

(f) A daily on-sale general license may be revoked summarily by the department if, in the opinion of the department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State.

NOTE: Authority cited: Section 22, Article XX, California Constitution; and Section 25750, Business and Professions Code. Reference: Sections 23001, 23394, 23396, 23399, 23401, 23402, 24045, 24045.1, 24048, 25500, 25501, 25504, 25600 and 25633, Business and Professions Code.

HISTORY

1. New section filed 10-31-69 as an emergency; designated effective 11-10-69.
2. Certificate of Compliance included (Register 69, No. 44).
3. New subsection (f) and amendment of NOTE filed 1-27-94; operative 2-28-94 (Register 94, No. 4).

§ 60. Transfer of Licenses.

(a) Subject to the provisions of law and of the department's rules limiting the number of licenses which may be issued in any county, licenses may be transferred from person to person and from premises to premises within the same county upon a single transfer application.

(b) The transferee shall make application to the department for a license of the type to be transferred and shall meet all the qualifications required of an original applicant for such license. The transferor shall join in the application.

(c) The transfer fee shall be paid by the transferee and shall accompany the application. The renewal fee shall accompany the transfer fee under circumstances described in Section 24048.2 or Section 24048.4 of the Business and Professions Code.

(d) In the absence of a temporary permit, the transferee shall not exercise any of the privileges of a licensee until the license is transferred by the issuance of a license certificate to the transferee. The transferor shall not permit the transferee to exercise any of the privileges of his license until the license is transferred.

(e) If a temporary permit is issued to the applicant for the transfer of an on-sale general license on which a caterer's permit has been issued, the temporary permittee shall be entitled to exercise all the privileges of

a caterer's permit during the period in which the temporary permit remains in effect without the payment of an additional fee.

(f) The administrator or executor of the estate of a deceased licensee may execute a transfer application and shall accompany such transfer application with a certified copy of letters testamentary or letters of administration.

(g) The guardian of the estate of a licensee may execute a transfer application and shall accompany such transfer application with a certified copy of the order appointing him guardian.

(h) In the event of the death of a limited partner licensee, or a general partner licensee where another general partner survives, the surviving partner or partners may execute a transfer application. In the event of the death of a general partner licensee where the only surviving partner is a limited partner, the executor or administrator of the estate of such general partner, or a person denominated in subsection (j) hereof, must also execute the transfer application. In both events, the transfer application shall be accompanied by a certified copy of the death certificate of the deceased partner, or other documentary proof of death satisfactory to the department.

(i) A trustee of the bankrupt estate of a licensee may execute a transfer application and shall accompany such transfer application with a certified copy of the order appointing him trustee.

(j) In the event that the estate of a deceased licensee may be disposed of without administration pursuant to Chapter 10 of Division 3 of the Probate Code and, if no administrator or executor of the estate is appointed, the surviving spouse or any other person entitled to administer such estate pursuant to such chapter may execute a transfer application and shall accompany such transfer application with a certified copy of the death certificate of the deceased licensee, or other documentary proof of death satisfactory to the department, and with either a certified copy of the order under which he acts or, if no such order is obtained, with an affidavit of his right to the licensed business.

(k) The receiver of the estate of a licensee may execute a transfer application and shall accompany such transfer application with a certified copy of the order appointing him receiver.

(l) If the transferor is a partnership, all members thereof must execute the application unless the department is satisfied by affidavit or otherwise that one or more partner licensees have abandoned their interest in the business and that such abandonment has continued for a period of not less than six consecutive months immediately preceding the application. The department may accept a transfer application executed by the remaining partners or any other person properly authorized by power of attorney.

For purposes of this rule, a partner licensee shall have abandoned his interest in the licensed business if he makes an oral or written declaration to that effect, or if all of the following conditions exist:

- (1) He cannot be found or located.
- (2) He has taken no active part in the operation or management of the licensed business.
- (3) He has not received any income directly or indirectly from the licensed business.

(m) No license may be issued or transferred to any person unless he owns or otherwise has possession and control, or a right to possession and control, of the premises for which he makes application for a license, evidenced by an instrument in writing or by other clear and convincing proof.

NOTE: Authority cited for amendment filed 12-24-58: Sections 23300, 23820, 23950, 23951, 23952, 23953, 24048.2, 24048.4, 24070, 24071, 24072 and 25750, Business and Professions Code and Section 22 of Article XX of the California Constitution.

HISTORY

1. Amendment filed 11-16-67; effective thirtieth day thereafter (Register 60, No. 46). For prior history, see Register 66, No. 3.
2. Amendment of subsections (d), (e) and (l) filed 12-18-69; designated effective 1-19-70 (Register 69, No. 51).

§ 60.1. Club Licenses.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New section filed 4-4-58; designated effective 5-15-58 (Register 58, No. 6).
2. Amendment filed 8-28-61; designated effective 10-1-61 (Register 61, No. 17).
3. Amendment filed 7-13-62; designated effective 8-15-62 (Register 62, No. 14).
4. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 60.2. Exchange of On-Sale General License for Public Premises.

No on-sale general license shall be exchanged for a public premises license for a period of two years from the date of the original issuance of the license, or two years from the date of transfer county to county, unless the applicant can show that substantial public demand cannot otherwise be satisfied.

NOTE: Authority cited: Sections 23793 and 25750, Business and Professions Code and Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46). For prior history, see Register 67, No. 46.
2. Amendment filed 9-23-71; designated effective 10-26-71 (Register 71, No. 39).
3. Amendment filed 2-8-72; designated effective 3-10-72 (Register 72, No. 7).
4. Amendment filed 5-7-74; designated effective 6-10-74 (Register 74, No. 19).

§ 60.3. Applications and Contracts to Transfer.

NOTE: Additional authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New section filed 7-13-62; designated effective 8-15-62 (Register 62, No. 14).
2. Amendment filed 10-25-63; effective thirtieth day thereafter (Register 63, No. 19).
3. Amendment filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46).
4. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 60.4. Off-Sale General License on Off-Sale Beer and Wine Premises.

An off-sale general license may be issued for a designated portion of a premises licensed with an off-sale beer and wine license when all the following conditions are met:

(a) The portion of the premises where the privileges of the off-sale general license are to be exercised shall be for the exclusive use of the off-sale general licensee, and shall be specified by metes and bounds and be distinctly separated from that portion of the premises where the privileges of the off-sale beer and wine license are exercised.

(b) The sale and delivery of alcoholic beverages under the off-sale general license shall be completed within the area defined and specified pursuant to paragraph (a) of this rule, and shall be made by the holder of the off-sale general license or his employees. Such employees shall be in the exclusive employ of the holder of the off-sale general licensee and shall not be employees of the off-sale beer and wine licensee. The holder of the off-sale general license shall possess and exercise the exclusive right to hire, supervise, and discharge such employees.

(c) The sale and delivery of alcoholic beverages under the off-sale beer and wine license shall be completed within the area of the premises other than that defined and specified pursuant to paragraph (a) of this rule, and shall be made by the holder of the off-sale beer and wine license or his employees. Such employees shall be in the exclusive employ of the holder of the off-sale beer and wine license and shall not be employees of the off-sale general licensee. The holder of the off-sale beer and wine license shall possess and exercise the exclusive right to hire, supervise, and discharge such employees.

(d) The off-sale beer and wine licensee and the off-sale general licensee shall each obtain and operate under separate appropriate business licenses, sales tax permits, and other such licenses and permits, and shall each keep and maintain separate records of inventory and sales, and records as required by Rule 17.

NOTE: Authority cited: Secs. 23300, 23355, 24040, 24041.5 and 25750, Business and Professions Code; Sec. 22, Art. XX, Calif. Constitution.

HISTORY

1. New section filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46).

§ 60.5. Caterer's Permit.

A caterer's permit may be issued to an on-sale general licensee, club licensee or veterans' club licensee upon application to the department and payment of the fee provided in Section 23399 of the Alcoholic Beverage Control Act. A caterer's permit authorizes the sale of alcoholic beverages for consumption upon premises approved by the department, and the privileges thereunder may be exercised under the following conditions:

(1) Unless waived by the department, for good cause shown, a catering authorization shall be obtained at least three days in advance of each catered event. A written application therefor shall be submitted indicating the address and common name of the premises to be catered, the number of occasions upon which the applicant has catered the premises during the current calendar year, the name and address of the person or organization sponsoring the event the type of event to be catered, and the estimated attendance thereat.

(2) A catering authorization shall not be issued for premises which have previously been denied a license by reason of the proximity of consideration points or conflict with a valid zoning ordinance unless a written waiver, executed by the person in charge of each such consideration point, is submitted or, in the case of conflict with a zoning ordinance, executed by the legal representative of the community involved.

(3) No caterer's authorization shall be issued in an area where the department would not authorize a license because of proximity to a university, State college, veterans home or other institution operated by the State or Federal Government, unless the privileges of the caterer's permit are to be exercised in connection with the serving of bona fide meals, and the exercise of the privileges will not otherwise be contrary to public welfare and morals.

(4) A catering authorization shall not be issued for use at any one premises for more than 24 events in one calendar year, except when the department determines additional events may be catered to satisfy substantial public demand.

NOTE: Authority cited: Sections 23300, 23399, 23789, 23790, 23791, 23958 and 25750, Business and Professions Code; Sections 172 through 172.9, Penal Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 10-25-63; effective thirtieth day thereafter. (Register 63, No. 19).
2. Amendment filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46).
3. Repealer of subsection (5) filed 5-7-74; designated effective 6-10-74 (Register 74, No. 19).

§ 61. License Limitations.

NOTE: Authority cited: Sections 23820 and 25750, Business and Professions Code. Reference: Sections 23815, 23818 and 23958, Business and Professions Code.

HISTORY

1. Amendment of subsection (a) filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46). For prior history, see Register 65, No. 18.
2. Repealer of subsection (b) filed 2-8-72; designated effective 3-10-72 (Register 72, No. 7).
3. Repealer of NOTE and new NOTE filed 6-1-77; effective thirtieth day thereafter (Register 77, No. 25).
4. Amendment filed 4-4-78; effective thirtieth day thereafter (Register 78, No. 14).
5. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 61.1. Priority Drawings.

NOTE: Authority cited: Sections 23820 and 25750, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Section 23815, Business and Professions Code.

HISTORY

1. New section filed 2-4-69 as an emergency; effective upon filing (Register 69, No. 6). For former section history, see Register 67, No. 46.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 4-14-69 (Register 69, No. 16).

3. Amendment filed 4-4-78; effective thirtieth day thereafter (Register 78, No. 14).
4. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 61.2. Restrictions on Government-Owned Premises.

NOTE: Authority cited: Sections 23824 and 25750, Business and Professions Code, and Section 22 of Article XX of the California Constitution.

HISTORY

1. New section filed 4-18-62; designated effective 5-21-62 (Register 62, No. 8). For history of former Section 61.2, see Register 61, No. 20.
2. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 61.3. Undue Concentration.

(a) For the purpose of section 23958 of the Alcoholic Beverage Control Act, undue concentration includes, but is not limited to, conditions set forth below:

The applicant premises for an original or premises-to-premises transfer of any retail license are located in a crime reporting district which has a 20% greater number of reported crimes, as defined below, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency if the following conditions exist:

(1) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(2) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

Notwithstanding the above, the department may issue a license if the applicant shows that public convenience or necessity would be served by such issuance.

(b) Definition of Terms and Data Sources. The following definitions and data sources shall govern the construction and application of this rule:

(1) "Reporting Districts" mean geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county), which reporting districts are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported Crimes" are the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, motor vehicle theft, and such offenses shall be combined with all arrests for other crimes, felonies and misdemeanors, except traffic citations.

(3) "Population Within the Census Tract or Census Division" means the population as determined by the most recent United States decennial or special census. Such population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the County" shall be determined by the annual population estimate for California counties published by the Population Research Unit, State Department of Finance.

(5) "Retail Licenses" shall include the following:

(A) Off-sale Retail Licenses: Types 20 (off-sale beer and wine) and 21 (off-sale general).

(B) On-sale Retail Licenses: All retail on-sale licenses except Types 43 (on-sale beer and wine for train), 44 (on-sale beer and wine for fishing party boat), 45 (on-sale beer and wine for boat), 46 (on-sale beer and wine for airplane), 53 (on-sale general for train and sleeping car), 54 (on-sale general for boat), 55 (on-sale general for airplane), 56 (on-sale general for vessel of more than 1,000 tons burden), and 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) The number of retail licenses in the county shall be determined by the most recent yearly retail license count published by the department in.

This rule does not apply where the premises have been licensed and operated with the same type license within 90 days of the application.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Section 23958, Business and Professions Code.

HISTORY

1. New section filed 8-1-77; effective thirtieth day thereafter (Register 77, No. 32). For history of former section, see Register 61, No. 20.
2. Amendment filed 4-4-79 as an emergency; effective upon filing (Register 79, No. 14).
3. Certificate of Compliance filed 6-29-79 (Register 79, No. 26).
4. Amendment filed 6-29-79; effective thirtieth day thereafter (Register 79, No. 26).
5. Change without regulatory effect amending section pursuant to section 100, title 1, California Code of Regulations filed 2-28-91 (Register 91, No. 13).

§ 61.4. Proximity to Residences.

No original issuance of a retail license or premises-to-premises transfer of a retail license shall be approved for premises at which either of the following conditions exist:

(a) The premises are located within 100 feet of a residence.

(b) The parking lot or parking area which is maintained for the benefit of patrons of the premises, or operated in conjunction with the premises, is located within 100 feet of a residence. Where the parking lot is maintained for the benefit of patrons of multiple businesses in the vicinity of the premises, the parking area considered for the purpose of this rule shall be determined by the area necessary to comply with the off-street parking requirements as mandated by the local ordinance, or if there are no local requirements for off-street parking, then the area which would reasonably be necessary to accommodate the anticipated parking needs of the premises, taking into consideration the type business and operation contemplated.

Distances provided for in this rule shall be measured by airline from the closest edge of any residential structure to the closest edge of the premises or the closest edge of the parking lot or parking area, as defined herein above, whichever distance is shorter.

This rule does not apply where the premises have been licensed and operated with the same type license within 90 days of the application.

Notwithstanding the provisions of this rule, the department may issue an original retail license or transfer a retail license premises-to-premises where the applicant establishes that the operation of the business would not interfere with the quiet enjoyment of the property by residents.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Section 23958, Business and Professions Code.

HISTORY

1. New section filed 8-1-77; effective thirtieth day thereafter (Register 77, No. 32). For history of former section, see Register 61, No. 20.
2. Amendment filed 6-27-79 as an emergency; effective upon filing (Register 79, No. 26).
3. Certificate of Compliance filed 10-25-79 (Register 79, No. 43).

§ 61.5. Off-Sale General License Restriction.

No original off-sale general license shall be issued to any premises for which an on-sale license is issued, except that the department may issue an off-sale general license to premises licensed under an on-sale general license if it is satisfied that the on-sale business and the off-sale business are to be physically separated and operated independently of each other and the privileges thereby granted are to be fully exercised in a bona fide manner. Subject to the provisions of Section 24044 of the Alcoholic Beverage Control Act, and Rule 65 of these regulations, no off-sale general license shall be held by any person who does not, in good faith, exercise the privileges granted thereby at the licensed premises.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 23300, 23320, 23355, 23394, 23401 and 24040, Business and Professions Code.

HISTORY

1. Repealer of NOTE and new NOTE filed 6-1-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 61, No. 14; 61, No. 20; 63, No. 19.

§ 62. Law Enforcement Personnel Not to Hold Licenses.

No license authorized by the Alcoholic Beverage Control Act shall be held by, or issued or transferred to, any person holding office in, or employed by, any agency of the State of California or any of its political subdivisions when the duties of such person have to do with the enforcement of the Alcoholic Beverage Control Act or any other penal provisions of law of this State prohibiting or regulating the sale, use, possession or manufacture of alcoholic beverages. This rule is deemed to apply specifically, but without limiting its effect, to any persons employed in the Department of Justice of the State of California, in any district attorney's office, in any sheriff's office, in any local police department, or in the Department of Alcoholic Beverage Control. This rule shall not prohibit the ownership of any license interest by any local law enforcement officer or local reserve law enforcement officer where the licensed premises are located in a county other than that in which he is employed as a law enforcement officer.

This rule shall apply to any person mentioned herein who has any ownership interest, directly or indirectly, in any business to be operated or conducted under an alcoholic beverage license.

The provisions of this rule shall not apply to the ownership of any stock of a corporation the stock of which is listed on a stock exchange, or to the ownership of any stock of a bank, trust company, financial institution or title company to which a license is issued in a fiduciary capacity. This rule shall not apply to any person who holds a license in the capacity of executor, administrator or guardian. This rule shall not apply to a peace officers association qualifying for a club license pursuant to Section 23428.10 of the Alcoholic Beverage Control Act.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Section 23428.10, Business and Professions Code.

HISTORY

1. Amendment filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6). For prior history, see Register 62, No. 21.
2. Amendment filed 4-4-78; effective thirtieth day thereafter (Register 78, No. 14).

§ 63. License Reinstatement After Automatic Revocation.

NOTE: Authority cited: Article XX, Section 22, California Constitution and Sections 25750, 24048.1 and 24048.3, Business and Professions Code.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Amendment filed 12-19-45 (Register 3).
3. Amendment filed 9-13-57 as an emergency; effective upon filing (Register 57, No. 15).
4. Amendment filed 8-31-65; effective thirtieth day thereafter (Register 65, No. 16).
5. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

§ 64. Premises Under Construction.

(a) No new and original license for the retail sale of alcoholic beverages shall be issued to premises which are in the process of construction until said premises are complete and ready for operation.

(b) A license may be transferred to a person who has premises under construction, and the certificate shall be held by the department until the construction of the premises is complete and ready for operation. No license transferred pursuant to this rule shall be retransferred prior to being placed into operation at the premises for which issued, except for undue hardship arising from causes beyond his control.

(c) The approved expected completion date on both pending applications filed pursuant to Section 24044 of the Alcoholic Beverage Control Act and licenses transferred and held under this section shall not be extended for more than six months, unless the department determines that the delay in construction is beyond control of the applicant or licensee.

If good cause for delay does not exist, the application will be denied or the license will be cancelled.

NOTE: Authority cited: Sections 23957, 23985, 24044, 24070 and 25750, Business and Professions Code; Section 22 of Article XX of the California Constitution.

HISTORY

1. New section filed 9-22-54; effective thirtieth day thereafter (Register 54, No. 20). For history of former section, see Register 53, No. 4.
2. Amendment filed 7-12-61; effective thirtieth day thereafter (Register 61, No. 14).
3. Amendment filed 7-13-62; designated effective 8-15-62 (Register 62, No. 14).

§ 64.1. Licenses Within 200 Feet of Licenses of the Same Type.

NOTE: Authority cited: Sections 23793, 23950 and 25750, Business and Professions Code and Section 22 of Article XX of the California Constitution.

HISTORY

1. New section filed 9-23-63; effective thirtieth day thereafter (Register 63, No. 17).
2. Repealer filed 9-17-65 as an emergency; effective upon filing (Register 65, No. 17).
3. Certificate of Compliance—Section 11422.1, Government Code, filed 11-2-65 (Register 65, No. 21).

§ 64.2. Premises Designation.

(a) Premises and Activity Diagram.

(1) Prior to the issuance or transfer of a license, the applicant shall file with the department, on forms furnished by the department, a complete detailed diagram of the proposed premises wherein the license privileges will be exercised.

(2) The diagram will show all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways. Each room and/or partitioned area within the premises area shown will include a brief statement or description of the principal activity to be conducted therein, e.g., office, storeroom, toilets, bar, cardroom, billiards, etc. If any described activity shown thereon is not, or will not be, conducted under the direct control, supervision and ownership of the alcoholic beverage licensee, the name and full identification of any person or persons who own, direct, control and/or supervise the activity will be furnished to the department together with a full disclosure of any agreement, written or oral, between the licensee and said person.

(3) If the area proposed to be licensed uses, either as a principal or secondary means of public ingress and/or egress, any common door or common passage with any other occupant of the same or adjacent buildings or rooms, a statement of the general entities conducted and the identification of the persons or entities conducting said activities will be made on the diagram.

(b) Substantial Physical Changes of Premises or Character of Premises.

(1) After issuance or transfer of a license, the licensees shall make no changes or alterations of the interior physical arrangements which materially or substantially alter the premises or the usage of the premises from the plan contained in the diagram on file with his application, unless and until prior written assent of the department has been obtained.

For purposes of this rule, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but are not limited to, the following:

(A) Substantial increase or decrease in the total area of the licensed premises previously diagrammed.

(B) Creation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage permits access to the licensed premises area from or between adjacent or abutting buildings, rooms, or premises.

(C) Where the proposed change will create in the licensed premises an area, or room, or rooms, whether or not partitioned, or in some other manner delimited and defined wherein activities of any nature not directly related to the sale of alcoholic beverages will be conducted by a person, per-

sons, or entity not under the direct control, supervision and direction of the licensee.

(2) Where the proposed change will create in the licensed premises area, or room, or rooms, or any portion of the premises, whereby the licensee, or the owner of the real property wherein the license privileges are exercised, creates or purports to create in any persons or entity by license, easement, grant sublease, subassignment or similar means an interest in which any person or entity will conduct any activity not directly related to the sale and service of alcoholic beverages not previously conducted on the premises.

(c) Application to Winegrower's and Brandy Manufacturer's Premises. The provisions of this rule shall not apply to the premises of a winegrower or brandy manufacturer, except for those portions of such premises where sales at retail are made or wine tasting activities are conducted. NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Article XX, California Constitution. Reference: Sections 23958 and 24040, Business and Professions Code.

HISTORY

1. New section filed 9-23-71; designated effective 10-26-71 (Register 71, No. 39).

§ 65. Surrender of License on Closing of Business.

(a) Every licensee who surrenders, abandons or quits his licensed premises, or who closes his licensed business for a period exceeding 15 consecutive calendar days, shall, within 15 days after closing, surrendering, quitting, or abandoning his licensed premises, surrender his license or licenses to the department. The department may seize the license certificate or certificates of any licensee who fails to comply with the surrender provisions of this rule, and may proceed to revoke his license or licenses.

(b) Upon the voluntary request by any licensee, on such form as the department may prescribe, the department may cancel his license or licenses.

(c) A surrendered license may be reinstated upon request made at least 10 days prior to the date of reinstatement upon certification by the licensee that there has been no change of ownership of the licensed business, and that the premises possess the same qualifications required for the original issuance of the license.

(d) Any license voluntarily surrendered under paragraph (a) of this rule shall be revoked if it is not transferred to another person or for use at another premises, or redelivered and the licensed activity resumed, within one year from the date of such surrender. There shall be no extension of such surrender period except when the department finds good cause exists where:

- (1) an application is pending for transfer of the surrendered license; or
- (2) litigation other than that involving disciplinary action by the department is pending; or

(3) the premises for which the license had been issued and for which the license is sought to be redelivered were destroyed due to circumstances beyond the control of the licensee by fire, flood, or other natural catastrophe, or as part of an urban renewal program, and the licensee makes an affirmative showing of good faith efforts that he is attempting to obtain reconstruction of such destroyed premises; or

(4) the Director in his judgment finds a case of undue hardship exists which would warrant an extension.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22 of Article XX, California Constitution.

HISTORY

1. Amendment of subsection (d) filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46). For prior history, see Register 58, No. 6.
2. Amendment filed 12-18-69; designated effective 1-19-70 (Register 69, No. 51).

§ 66. Premises Where License Previously Denied, Revoked, or Conditions Imposed.

No license shall be issued for any premises for which an application for a license has been denied, or at which a license has been revoked, for reasons pertaining to the premises, unless one year has elapsed from the date the order becomes final.

When conditions have been imposed on a license, where otherwise the license would be denied, for reasons relating to the premises, no petition for the removal of the conditions may be filed within one year from the date the license was issued, or from the date a similar petition was denied.

Notwithstanding the provisions of this rule, the department may at any time in the reasonable exercise of its discretion issue a license for any premises which was originally denied or at which a license has been revoked, or may accept a petition to remove conditions, if the reasons which caused the denial, revocation or imposition of conditions no longer exist.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22 of Article XX, California Constitution. Reference: Sections 23800, 23801, 23802, 23803, 23804 and 23958, Business and Professions Code.

HISTORY

1. Amendment filed 11-16-67; effective thirtieth day thereafter (Register 67, No. 46). For prior history, see Register 62, No. 8.
2. Amendment to NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).

§ 67. On-Sale Beer and On-Sale Beer and Wine Licenses.

NOTE: Authority cited: Sections 23958 and 25750, Business and Professions Code.

HISTORY

1. Amendment filed 9-18-47 (Register 9).
2. Amendment filed 5-7-74; designated effective 6-10-74 (Register 74, No. 19).
3. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 67.1. Beer Public Premises.

(a) On and after November 8, 1967, any premises for which an on-sale beer license has been or is issued, shall be a public premises as defined in Section 23039(a)(2) of the Alcoholic Beverage Control Act if no food is prepared and sold on the premises for consumption on the premises. As used in the foregoing sentence "food" includes sandwiches, hamburgers, hot dogs, pizza, tacos, salads, desserts (other than pre-packaged individual servings of ice cream, ice milk or imitation ice cream), and similar short orders.

(b) Any on-sale beer license issued or transferred on or after November 8, 1967, for premises on which no food is prepared and sold as provided in (a) of this rule, shall be designated as an "On-Sale Beer License for Public Premises."

(c) Any person who, on November 8, 1967, holds an on-sale beer license, other than a license designated as "On-Sale Beer License for Public Premises," for premises on which no food is prepared and sold as provided in (a) of this rule, may at the time such person renews his license for 1968, notify the department that his license is to be designated as "On-Sale Beer License for Public Premises." No fee shall be charged for such initial designation if made at the time the license is renewed for 1968.

Any person who holds an on-sale beer license, other than a license designated as "On-Sale Beer License for Public Premises," for premises on which no food is prepared and sold as provided in (a) of this rule, shall prior to March 1, 1968, notify the department that the license is to be designated as "On-Sale Beer License for Public Premises." If such notification of designation is made other than at the time the license is renewed for 1968, the exchange fee prescribed by Business and Professions Code Section 24072.2 shall accompany said notification.

(d) Each licensee who holds an "On-Sale Beer License for Public Premises" shall comply with the provisions of Rule 107 of the department's rules. The provisions of Section 25665 of the Alcoholic Beverage Control Act shall apply to each licensee who holds an "On-Sale Beer License for Public Premises."

(e) An on-sale beer license may be exchanged for an "On-Sale Beer License for Public Premises," and an "On-Sale Beer License for Public Premises" may be exchanged for an on-sale beer license in accordance with the provisions of this rule and with the provisions of Sections 23039 and 24072.2 of the Alcoholic Beverage Control Act.

NOTE: Authority cited: Sections 23039, 24070.1, 24072.1, 24072.2, 25665 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 10-9-67; effective thirtieth day thereafter (Register 67, No. 41).
2. Amendment of subsection (d) filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6).

§ 68. Transfer of General Licenses.

NOTE: Authority cited: Sections 23820 and 25750 of the Business and Professions Code; Section 22, of Article XX, California Constitution. Reference: Sections 14100, 14101, 14102, 14103, 16600, 16601, 16602, 23816, 23817, 23821, 23950, 23953, 23954, 23958, 24079 and 24080, Business and Professions Code.

HISTORY

1. Repealer of NOTE and new NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 64, No. 8; 71, No. 4; 72, No. 29; 75, No. 4.
2. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

§ 68.1. Waiting Period.

NOTE: Authority cited: Sections 23793, 23815, 23816, 23820, 23954.5, 23958, 24070, 24079, 24080 and 25750, Business and Professions Code; Section 22, Article XX of the California Constitution.

HISTORY

1. New section filed 2-16-65 as an emergency; effective upon filing (Register 65, No. 3).
2. Repealed by operation of Sec. 11422.1, Gov. Code (Register 67, No. 41).

§ 68.2. Tax Delinquency When Transfer Pending.

The department may refuse to transfer any license limited under Article 2 (commencing with Section 23815) of Chapter 5 of Division 9, Business and Professions Code, or any on-sale general seasonal license if the transferor is delinquent in the payment of any taxes due under the laws specified in Section 24049 of the Alcoholic Beverage Control Act, provided that notice of such delinquency has been filed with the department. Standard forms approved by the department and produced by the agencies which administer the laws specified in Section 24049, or by the department, shall be used by said agencies: (1) to give notice to the department that a delinquency exists as to a licensee; (2) to make demand on the delinquent licensee for the amount of the delinquency, plus interest if applicable; and (3) to give notice to the department that the delinquency has been cleared and the withhold is to be released.

(1) Upon receipt by the department of notice in duplicate that a delinquency exists as to a licensee, the department shall attach the original to the licensee's file, and shall return the duplicate, endorsed with any pertinent information, to the agency at such time as an application is filed to transfer the license of the licensee to another person.

(2) The taxing agency shall, within 30 days after the date the department returns the duplicate, make demand on the delinquent licensee for the amount of the delinquency, plus interest if applicable, and shall give notice of such demand to the escrow holder and the transferee. Copies of the notice of such demand shall be sent to the Headquarters office of the department in Sacramento and the appropriate district office of the department. If the agency fails to make its demand within 30 days after the date the department returns the duplicate of the agency's notice of delinquency, the department may proceed to transfer the license.

(3) A form of notice, in duplicate, that the delinquency has been cleared and the withhold is to be released, shall accompany the demand made by the agency as provided in (2) above. The person who pays the delinquency, plus interest if applicable, shall, upon making such payment to the agency, send the original of the notice provided herein to the Headquarters office of the department in Sacramento.

NOTE: Authority cited: Sections 23820, 24049, 24074 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 10-9-67; effective thirtieth day thereafter (Register 67, No. 41).

§ 68.5. Issuance or Transfer of Corporate Stock; Change of Corporate Directors or Officers.

(a) Each corporate licensee shall, within thirty days of a change of the members of the board of directors, or a change in any of the corporate officers required by Section 312 of the Corporations Code, or the issuance

or transfer of shares of its stock which results in a person not previously approved owning 10% or more of its stock, comply with the following conditions:

(1) Make application to the department on such forms as may be prescribed which shall contain such information with respect to the new person as is required to be furnished by an applicant for a license.

(2) Cause the new director, officer, or stockholder to present himself to the department within thirty (30) days of application, as required under (1) above, for completion of such forms as may be prescribed and for fingerprinting when deemed necessary.

(b) The department shall make an investigation to determine whether provisions of the Alcoholic Beverage Control Act and the Rules have been complied with and to determine the qualifications of the persons who present themselves as required in (a) (2) above. Where the department finds that the person does not have the qualifications to hold an alcoholic beverage license under Division 9 of the Business and Professions Code or Chapter 1, Title 4 of the California Administrative Code, the following procedure shall apply:

(1) In the case of an application filed as required under Section 24071.1 of the Business and Professions Code, the department may deny the transfer application.

(2) In all other cases the department shall notify in writing the corporate licensee and the person who was found to be disqualified. Such written notice shall become "The statement of issues," as the term is used in Section 11504 of the Government Code. Within ten (10) days after such notification is mailed, the person or corporate licensee may petition the department in writing for a hearing on such notice of disqualification. On receipt of the petition, a hearing shall be scheduled thereon. The provisions of Section 24300 of the Business and Professions Code and Chapter 5 (commencing with Section 11500) of Part 1, Division 3 of Title 2 of the Government Code, shall govern such proceedings.

(c) When the department finds an officer, director or stockholder to be disqualified and the department's decision becomes final, as provided for by law, the department shall notify the licensed corporation in writing that it has thirty (30) days in which to take such action as may be necessary to remove the disqualified person from the corporation. Failure to so act within the prescribed period may be cause for disciplinary action by the department for the purpose of suspending or revoking the license. In any such disciplinary action, any findings of fact previously adopted by the department in connection with the person's disqualifications shall be presumptive proof as to the issue of the person's qualifications.

(d) When the final decision of the department is that a new director, officer or stockholder is qualified, written notice to that effect shall be given the person and the corporate licensee.

(e) The above provisions of this rule shall not apply to the following:

(1) A corporate licensee, the stock of which is listed on a stock exchange in this State, or in the City of New York, State of New York:

(2) A bank, trust company, financial institution or title company to which a license is issued in a fiduciary capacity; and

(3) A corporate licensee which is required by law to file periodic reports with the Securities and Exchange Commission.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 23958, 24070, 24071 and 24071.1, Business and Professions Code.

HISTORY

1. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 72, No. 7.

§ 68.6. Retail License Qualifications Where Interest Held by Out-of-Country Winegrower.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Section 25503.13, Business and Professions Code.

HISTORY

1. New section filed 6-29-79; effective thirtieth day thereafter (Register 79, No. 26).
2. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

Article 12. Military and Naval Reservations and Camps

§ 69. Denial, Suspension or Revocation of Licenses.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New section filed 12-14-51 as an emergency; effective upon filing (Register 26, No. 6).
2. Amendment filed 6-5-59; designated effective 7-6-59 (Register 59, No. 9).
3. Editorial correction in NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
4. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 70. Premises Declared "Off-Limits" by Military Authorities.

NOTE: Additional authority cited: Section 25750, Business and Professions Code. Issuing agency: Department of Alcoholic Beverage Control.

HISTORY

1. New section filed 10-10-51 as an emergency; effective upon filing (Register 26, No. 1). (For history of previous section see Register 9.)
2. Amendment filed 10-2-56; designated effective 11-1-56 (Register 56, No. 19).
3. Repealer filed 8-21-62 as an emergency; effective upon filing (Register 62, No. 17).
4. Certificate of Compliance—Section 11422.1, Government Code, filed 11-27-62 (Register 62, No. 24).

§ 71. Sales to Persons on Federal Reservations.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Sections 23384, 25616 and 25752, Business and Professions Code.

HISTORY

1. Repealer of NOTE and new NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 58, No. 4.
2. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

Article 13. Private Warehouses

§ 76. Private Warehouses.

Whenever a licensee desires to store alcoholic beverages, other than state tax-paid beer or wine, in a private warehouse, such licensee shall make application for approval of such warehouse to the district office of the department. The application shall specify the location of the warehouse, by whom maintained, the name of the licensee and the types of licenses, together with the numbers thereof, held by him. The district supervisor may approve the application if he is satisfied that the stated facts are correct. The applicant shall be given written notice of such approval, and he shall post it inside and near the entrance to the warehouse.

NOTE: Authority cited for amendment filed 4-7-58: Sections 23035, 23106 and 25750, Business and Professions Code; Section 22 of Article XX, California Constitution.

HISTORY

1. Amendment filed 4-7-58; designated effective 5-15-58 (Register 58, No. 6).

Article 14. Sales Without Licenses

§ 79. Sales Without Licenses.

(a) Temporary Continuation of Retail Business. The administrator, executor or guardian of the estate of a retail licensee or receiver for a retail licensee or trustee of the bankrupt estate of a retail licensee, or assignee for the benefit of creditors of a retail licensee, or the surviving and competent colicensees of a deceased or incompetent retail licensee, may apply to the district supervisor of the department in the district in which the licensed premises are located for permission to operate a licensed business under the provisions of Section 23102 of the Alcoholic Beverage Control Act. Permission to sell and deal in alcoholic beverages under the authority of the license may be granted by district supervisor orally and

shall be immediately confirmed in writing. Suspension or revocation of permission under this section may be made by the department in accordance with the provisions of the Alcoholic Beverage Control Act applicable to licenses.

(b) Temporary Continuation of Licensed Business Other Than Retail. The administrator, executor or guardian of the estate, or receiver, or assignee for the benefit of creditors, or trustee of the bankrupt estate of a licensee other than a retail licensee, may apply to the Director of Alcoholic Beverage Control for permission to operate under the provisions of Section 23102 and shall accompany such application with a surety bond as required by Part 14 of Division 2 of the Revenue and Taxation Code. Permission to operate shall be made in writing by the Director of Alcoholic Beverage Control, and suspension or revocation of such permission to operate may be made by the department in accordance with the provisions of the Alcoholic Beverage Control Act applicable to licenses.

(c) Sales by Former Licensees. A former licensee, or licensee whose license has been surrendered under Rule 65, may apply to a district office of the department in writing for permission to sell his stock of alcoholic beverages to a licensee or licensees authorized to resell such alcoholic beverages. The application shall state the date and hour of the proposed sale, which shall be not less than five nor more than 15 days from the date of filing the application, and shall be accompanied by an inventory of all alcoholic beverages to be sold to each licensee. The District Administrator may grant approval if he is satisfied the stated facts are correct. The applicant shall be given written notice of such approval, which notice he shall present upon request to any peace officer at the time of the sale.

The above requirements shall not apply to a licensee whose license is in process of transfer and who, in conjunction with that transfer, sells his stock of alcoholic beverages to the transferee.

(d) Sales to Enforce Warehouseman's Lien. A warehouseman, making a sale of alcoholic beverages to enforce a lien acquired under the Warehouse Receipts Act, shall sell distilled spirits only to distilled spirits manufacturers, manufacturers' agents, rectifiers and wholesalers, and shall sell beer and wine only to beer manufacturers and importers and to wine growers and importers. Written notice of sale shall be given the department at least one week in advance of sale.

(e) Insurers and Common Carriers. Any insurer which has insured the licensee against loss or damage to alcoholic beverages of the licensee, or any common carrier acting as an insurer for losses to persons shipping alcoholic beverages may apply to the Sacramento office of the department for permission to sell alcoholic beverages of such licensee, or other person shipping alcoholic beverages which have been damaged by fire or otherwise. The application shall be in writing in triplicate and shall state the name of the licensee or other person whose alcoholic beverages have been damaged, the quantity of the alcoholic beverages damaged and which are to be sold, the location of the alcoholic beverages, and the name of the licensee to whom the sale is to be made. Applications by common carriers shall also show the name of the shipper of alcoholic beverages, point of origin of the shipment, and the consignee.

Any insurer or common carrier acting as an insurer shall, before completing a sale of damaged malt beverages to any other type of licensee, offer the merchandise back to the manufacturer who produced it if that manufacturer is a California licensee or to the importer of the merchandise involved if the manufacturer is not licensed in California. If such California manufacturer or importer meets the highest price offered for the merchandise by any other type of licensee within ten days of notification by the insurer of the highest offer, the sale of the damaged malt beverages shall be made to said manufacturer or importer rather than to the other licensee.

(f) Sales by Executors or Administrators. An executor or administrator of the estate of a deceased person who was not a licensee at the time of his death may apply to a district office of the department in writing for permission to sell alcoholic beverages under Section 23104.4 of the Business and Professions Code. The application shall be in triplicate and shall state the quantity, brand, and type of alcoholic beverages to be sold. The district supervisor may, in writing, grant permission to make the sale of

alcoholic beverages to a licensee authorized to sell such alcoholic beverages, such sale to be made at any time within 10 days from the date of granting approval.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Section 23381, Business and Professions Code.

HISTORY

1. Amendment of subsection (c) filed 12–6–68; designated effective 1–8–69 (Register 68, No. 46). For prior history, see Register 64, No. 8.
2. Amendment of subsection (c) filed 2–8–72; designated effective 3–10–72 (Register 72, No. 7).
3. Amendment of subsection (f) filed 2–2–77; designated effective 3–7–77 (Register 77, No. 6).
4. Repealer of subsection (d) and relettering of former subsections (e)–(g) to subsections (d)–(f) filed 6–4–84; effective thirtieth day thereafter (Register 84, No. 23).

§ 80. Labeling of Damaged Merchandise.

A common carrier acting as an insurer for losses to persons shipping alcoholic beverages or an insurance company, pursuant to authority of Section 23104 of the Alcoholic Beverage Control Act, may take possession of damaged alcoholic beverages insured by it, after permission has been granted by the department. Such alcoholic beverages may be sold only to qualified licensees. Alcoholic beverages so sold because of damage by fire, wreck, or other similar circumstances shall be labeled to identify them as distressed merchandise.

The label for this purpose shall be white paper not less than two inches long and one inch wide. The following statement shall be printed thereon: "The alcoholic beverage contained herein is distressed merchandise salvaged from fire, flood, wreck, or similar catastrophe. This label is not affixed by the manufacturer." The letters on the label shall be no smaller than pica type and shall be bold-faced. The label may be larger than the minimum herein, if desired. Such label shall be affixed over the regular label of each bottle or other package by the insurance company or common carrier before it is delivered to the purchasing licensee.

No licensee shall purchase or resell such distressed merchandise without such label being securely affixed over the regular label of each bottle or other package.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Section 23104, Business and Professions Code.

HISTORY

1. New section filed 9–5–58; designated effective 10–10–58 (Register 58, No. 16).
2. Amendment filed 10–30–59; designated effective 11–30–59 (Register 59, No. 18).
3. Amendment filed 6–18–77; effective thirtieth day thereafter (Register 77, No. 25).

§ 81. Retailers' Sales to Wholesalers.

NOTE: Authority cited: Sections 23104.3, 23104.4 and 25750, Business and Professions Code.

HISTORY

1. New section filed 9–25–53; effective thirtieth day thereafter (Register 53, No. 17).
2. Amendment filed 2–28–58; effective thirtieth day thereafter (Register 58, No. 4).
3. Repealer filed 11–6–96; operative 12–6–96 (Register 96, No. 45).

Article 15. Prices

§ 90. Posting of Malt Beverage Minimum Retail Prices.

NOTE: Authority cited: Sections 24757, 25006 and 25750, Business and Professions Code; Section 22 of Article XX, California Constitution. Reference: Sections 24750, 24751 and 24755, Business and Professions Code.

HISTORY

1. Repealer filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22). For prior history, see Registers 60, No. 16; 61, No. 18; 71, No. 4, 78, No. 14.

§ 99. Minimum Retail Price Schedules.

NOTE: Authority cited: Sections 24757 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 24749, 24750–24752 and 24755, Business and Professions Code.

HISTORY

1. Repealer filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22). For prior history, see Registers 70, No. 25; 71, No. 4; 73, No. 29; 79, No. 25).

§ 99.1. Consumer Discounts.

NOTE: Authority cited: Sections 24757 and 25750, Business and Professions Code and Section 22 of Article XX of the California Constitution. Reference: Sections 24749, 24750, 24752, 24755 and 25752, Business and Professions Code.

HISTORY

1. Repealer filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22). For prior history, see Registers 76, No. 50; 73, No. 27; 7, No. 5.

§ 99.2. Minimum Distilled Spirits Retail Price Information.

NOTE: Authority cited: Sections 24757 and 25750, Business and Professions Code; Section 2 of Article XX, California Constitution. Reference: Sections 24749 and 24755, Business and Professions Code.

HISTORY

1. Repealer filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22). For prior history, see Registers 67, No. 41; 77, No. 6; 78, No. 14.

§ 100. Distilled Spirits Price Posting.

NOTE: Authority cited: Sections 24757 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 24749, 24750, 24751, 24752, 24755, 24756, 25503, 25600 and 25752, Business and Professions Code.

HISTORY

1. Amendment filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22). For prior history, see Registers 73, No. 13; 77, No. 16; 77, No. 10; 77, No. 15.
2. Amendment of subsections (a) and (b)(1) filed 6–18–80; effective thirtieth day thereafter (Register 80, No. 25).
3. Change without regulatory effect repealing section filed 2–27–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 13).

§ 100.1. Distilled Spirits Price Posting.

NOTE: Authority cited: Sections 24749, 24750, 24751, 24752, 24755, 24756, 24757, 25503, 25600, 25750, 25752, Business and Professions Code, and Section 22 of Article XX of California Constitution.

HISTORY

1. New section filed 9–12–61; designated effective 10–15–61 (Register 61, No. 18).
2. Repealer filed 3–17–67; effective thirtieth day thereafter (Register 67, No. 11).

§ 101. Wine Price Schedules.

NOTE: Authority cited: Sections 24881 and 25750, Business and Professions Code. Reference: Sections 24850–24878, Business and Professions Code.

HISTORY

1. Amendment of subsections (b)(2) and (g) filed 2–2–77; designated effective 3–7–77 (Register 77, No. 6). For prior history, see Register 75, No. 4.
2. Amendment to NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment of subsection (p) filed 4–4–78; effective thirtieth day thereafter (Register 78, No. 14).
4. Repealer filed 6–4–84; effective thirtieth day thereafter (Register 84, No. 23).

§ 103. Retail Price Advertising of Distilled Spirits.

NOTE: Authority cited: Section 25750, Business and Professions Code.

HISTORY

1. New NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Register 3, 10, No. 7; 61, No. 14.
2. Repealer filed 6–4–84; effective thirtieth day thereafter (Register 84, No. 23).

§ 104. Misleading Advertising.

NOTE: Authority cited: Sections 24757 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Sections 23001, 23025, 24752, 24755 and 24875, Business and Professions Code.

HISTORY

1. New section filed 6–24–48, designated to become effective 7–26–48 (Register 12, No. 11).
2. New NOTE filed 6–17–77; effective thirtieth day thereafter (Register 77, No. 25).
3. Repealer filed 11–6–96; operative 12–6–96 (Register 96, No. 45).

§ 105. Beer Price Posting.

(a) The schedule of prices for the sale of beer, as required by Section 25000 of the Alcoholic Beverage Control Act, shall be filed with the department on a form prescribed by the department, in accordance with in-

structions thereon. All prices filed shall be for immediate delivery. Contract prices for future deliveries of beer and quantity discounts shall not be filed with the department.

(b) Each manufacturer, importer or wholesaler of beer shall file a price schedule for each county in which his customers have their premises, whether the price which is posted is f.o.b. or delivered, or both. Trading areas within a county must be based on natural geographical differences justifying different prices, and shall not be established for special customers.

NOTE: Authority cited: Sections 25006 and 25750, Business and Professions Code; Section 22, Article XX of the California Constitution. Reference cited: Section 25000, Business and Professions Code.

HISTORY

1. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25). For prior history, see Registers 23, No. 5; 27, No. 5; 57, No. 15; 61, No. 17.

Article 16. Signs and Notices

§ 106. Advertising and Merchandising of Alcoholic Beverages.

(a) Free Goods. No licensee shall, directly or indirectly, give any premium, gift, free goods, or other thing of value in connection with the sale, distribution, or sale and distribution of alcoholic beverages, and no retailer shall, directly or indirectly, receive any premium, gift, free goods or other thing of value from a supplier of alcoholic beverages, except as authorized by this rule or the Alcoholic Beverage Control Act.

(b) Definitions. Unless the context otherwise requires, the following definitions govern the construction of this rule.

(1) "Supplier" means any manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, blender, broker, distiller, bottler, importer, wholesaler, or any officer, director, agent or affiliate of any such person.

(2) "Retailer" means any on-sale or off-sale licensee or any holder of a temporary retail permit or interim retail permit.

(3) "Sign" means a flat material or a three dimensional unit (other than the advertised product itself) principally bearing a conspicuous notice of the manufacturer's name, brand name, trade name, slogans, markings, trademarks or other symbols commonly associated with and generally used by the manufacturer in identifying the manufacturer's name or product, with or without other graphic or pictorial advertising representations, whether illuminated or mechanized, including but not limited to posters, placards, stickers, decals, shelf-strips, wall panels, shadow boxes, price boards, mobiles, inflatables, dummy bottles, bottle toppers, case wrappers, neck ringers, brand identifying statuettes, tap markers, table tents, mirrored signs, plaques and other similar items.

A sign advertising distilled spirits or wine shall have no secondary value and be of value to the retailer only as advertising.

(4) "Decorations" means material other than permitted signs, displays, promotional material, and the product itself which are used in the interior of retail premises for the embellishment of said signs, displays and promotional materials. "Decorations" include such items as holiday decorations, paintings, pictures, streamers, bunting, corrobuff, inflatables, foil, trimming or other temporary material which need not contain a conspicuous notice of the manufacturer's name, brand name, trade name, slogans, markings, trademarks or other symbols commonly associated with and generally used by the manufacturer in identifying the manufacturer's name or product. Such decorations shall have no intrinsic or significant utilitarian or secondary value other than as an embellishment. Decorations furnished to a single off-sale retail premises by one supplier in use at one time shall not exceed \$50 original cost to the supplier, or if not purchased by or for the supplier, shall not exceed the total fair retail market value of \$50.

(5) "Promotional materials" means material of any kind other than permitted signs, displays, decorations, and the product itself furnished by a

supplier to a retail licensee for advertising purposes. Promotional materials shall have no intrinsic or significant utilitarian or secondary value other than as permitted by this rule.

(6) "Window display" means the exhibition in windows of any or all of the following: permitted signs, promotional material, decorations and the advertised product itself.

(7) "Temporary floor display" means the exhibition of alcoholic beverages in off-sale premises by means of racks, bins, barrels, casks, shelving and similar devices from which alcoholic beverages are displayed and sold. Such displays shall bear conspicuous advertising required of a sign. "Temporary" shall mean a period of time not exceeding four months.

(8) "Sale", "Sales", "Distribution" or "Sales and Distribution" as used in this rule mean the total business of merchandising alcoholic beverages, including the solicitation of customers and the various methods and procedures used in advertising and promoting the sale of alcoholic beverages, as well as the actual transfer of title of alcoholic beverages.

(9) "Furnish" as used in this rule means to supply or make available for use as well as the giving or actual transfer of title of an item.

(c) Signs, Displays and Promotional Materials. A supplier shall not give or furnish signs, displays, or promotional materials advertising alcoholic beverages to a retailer, except as permitted by this rule or the Alcoholic Beverage Control Act.

(1) Interior Signs. A supplier may furnish interior signs advertising alcoholic beverages sold by him to a retailer for use within on-sale or off-sale premises, provided no such sign relating to wine or distilled spirits for use within an on-sale premises shall exceed 630 square inches. A sign shall be deemed to be an interior sign although placed in a window and primarily visible from outside the premises. Interior signs furnished by suppliers which advertise distilled spirits and wine shall have no secondary value and be of value to the retailer only as advertising. Suppliers may not directly or indirectly or through an arrangement with an affiliate or other person pay or credit the retailer for displaying the interior sign or for any expense incidental to its operation.

(2) Exterior Signs. No supplier shall sell, rent or otherwise furnish an exterior sign to any retail licensee except that any wholesaler may sell or rent such a sign to a licensee at a price not less than the current market price for such sign.

No supplier shall place any sign, banner, display, or other device advertising alcoholic beverages on or over any public sidewalk, street or thoroughfare; nor shall any supplier place such signs on or adjacent to any retail premises or parking lot used in conjunction with any premises; provided however, that a supplier may temporarily furnish non-permanent exterior signs, banners and inflatables to organizations in connection with events described in subsections (h) and (i) of this rule.

"Exterior Signs" include but are not limited to billboards, inflatables, panels and any other device used to advertise a supplier's product.

(3) Displays. A supplier may furnish, install, set up and service signs, promotional materials and decorations as window displays or temporary floor displays in off-sale premises. The supplier shall not, directly or indirectly or through an arrangement with an affiliate or other person, pay or credit the retailer or employees or agents of the retailer for the privilege of placing such advertising materials within the retail premises, or for any expenses incidental to their operation.

(4) Promotional Materials. A supplier may furnish, give, lend, rent or sell promotional materials for alcoholic beverages sold by him to a retailer for use within off-sale premises, so long as the promotional material has no intrinsic value other than as advertising, in the same manner and under the same terms and conditions as the supplying of signs or displays pursuant to this rule.

(d) Alcoholic Beverage Lists. A supplier shall not furnish wine and/or spirits lists to a retailer except as permitted by this Rule.

A supplier of alcoholic beverages other than beer who is authorized by its license to sell its product to retailers may furnish to retailers authorized by their license to sell such alcoholic beverages other than beer, lists of alcoholic beverages other than beer sold and/or produced by the licensee

and/or other suppliers, provided that the material for such lists and all components thereof shall not cost more than \$25 per unit original cost to the supplier. A supplier may not make payment to a retailer for the purchase of wine and/or spirits lists, or reimburse a retailer for payment already made for the purchase of wine and/or spirits lists. Without limitation, the following may appear on said list:

(1) the name (or names) of the producer (or producers) of the wine and/or spirits and address, logo, slogan or other symbols or markings associated with and used by the producer in identifying his name or products;

(2) name of the product (or products), brand name, price, size, vintage date, bin number or other product designation;

(3) product description or identifying information or appellation of origin;

(4) the name of the retail licensee to whom the list is furnished and such retailers address, slogan, logo, etc. associated with and used by the retailer in identifying his name, business or establishment.

(e) Advertising Specialties. No licensee shall give advertising specialties except as permitted by this Rule or upon prior approval of the Department.

(1) Retailer Advertising Specialties. A supplier of wine or distilled spirits may furnish, give, rent, loan or sell advertising specialties to a retailer provided such items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished by a supplier directly or indirectly, to a retailer shall not exceed \$50 per brand in any one calendar year per retail premises. The value of a retailer advertising specialty is the actual cost of that item to the supplier who initially purchased it. Transportation and installation costs are excluded. The furnishing or giving of any retailer advertising specialty shall not be conditioned upon the purchase of the suppliers product. Retail advertising specialties given or furnished free of charge may not be sold by the retail licensee. Retailer advertising specialties include but are not limited to trays, coasters, coin mats, napkins, thermometers, jiggers, clocks, stirring spoons, pouring spouts, sponges, towels, menu cards, meal checks, calendars and similar items approved by the Department and which have inconsequential value.

(2) Consumer Advertising Specialties. Consumer advertising specialties such as ash trays, bottle or can openers, litter or shopping bags, matches, recipe cards, pamphlets, pencils, post cards, hats, posters, bottle or can stoppers, and other items approved by the Department, and which bear conspicuous advertising required of a sign may be furnished, given or sold to a retail licensee for unconditional distribution to the general public.

(A) Consumer advertising specialties furnished by a distilled spirits supplier to a retailer or to the general public shall not exceed \$5.00 per unit original cost to the supplier who purchased it.

(B) Consumer advertising specialties furnished by a wine supplier to a retailer or to the general public shall not exceed \$1.00 per unit original cost to the supplier who purchased it.

(C) Consumer advertising specialties furnished by a beer supplier to a retailer or to the general public shall not exceed \$0.25 per unit original cost to the supplier who purchased it, or \$15.00 in the aggregate for all such items given by a single beer supplier to a single retail premises per calendar year.

A retailer may not be paid or credited in any manner directly or indirectly for distribution service nor shall consumer advertising specialties furnished free of charge by a supplier be sold by a retailer. A retail licensee may give advertising specialties to consumers provided such gifts are not coupled with the purchase of any alcoholic beverage and the original cost per unit to the retailer or the supplier does not exceed \$1.

Coin banks, toys, balloons, magic tricks, miniature bottles or cans, confections, dolls, or other items which appeal to minors or immature persons may not be used in connection with the merchandising of alcoholic beverages.

(3) Records. Suppliers shall keep and maintain records for a three year period of all items furnished to retailers under the provisions of this sub-

section. Commercial records or invoices may be used to satisfy this record keeping requirement if all required information is shown. These records shall show:

(A) The name and address of the retailer receiving the item;

(B) The date furnished;

(C) The item furnished;

(D) The supplier's cost of the item furnished (determined by manufacturer's invoice price); and,

(E) Charges to the retailer for any item.

(f) Cooperative advertising. No supplier of alcoholic beverages directly or indirectly, shall participate with a retailer in paying for an advertisement placed by the retailer, nor shall any signs, displays, advertising specialties promotional materials or decorations furnished by a supplier as permitted by this rule refer to the retailers name or business.

(g) No licensee, in connection with a licensed business, shall give any alcoholic beverage to any person to whom the licensee is authorized to sell except as provided by in Rule 52 and Section 23386 of the Alcoholic Beverage Control Act.

It is not the intent or purpose of this Rule to prohibit an on-sale licensee or any employee of such licensee from giving an incidental drink to a patron.

(h) Public Service Activities. Without violating this rule suppliers may furnish services to communities and bona fide nonprofit organizations in connection with public service or fund raising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, educational clinics, public concerts, and other similar events when approved by the department provided no such services are conditioned, directly or indirectly, upon the purchase of an alcoholic beverage or the exclusive sale of a suppliers product at such events. No such services shall be furnished for the benefit of any permanent retail licensee. Notwithstanding the prohibitions contained in subsection (f) of this rule, suppliers may furnish or share in the cost of advertisements, signs, promotional materials, etc. used in connection with such public service activities. Such advertising material may refer to the name of the temporary retail licensee sponsoring the event.

(i) Contests.

(1) Contests sponsored by retail licensees. Without violating this rule, retail licensees may furnish prizes other than alcoholic beverages, to participants in competitive events held on the licensed premises, provided participation in such events shall not be conditioned on the purchase, sale or consumption of alcoholic beverages and provided that such contest or competitive event does not involve the consumption of alcoholic beverages.

(2) Contest sponsored by suppliers. Without violating this rule, suppliers may sponsor contests, races, tournaments, and other similar activities on or off licensed premises. Sponsorships shall be only in the form of monetary payments to bona fide amateur or professional organizations established for the encouragement and promotion of the activities involved. Sponsorship shall be subject to the following conditions:

(A) There shall be no requirement for the exclusive sale of the sponsor's products nor shall such products be sold exclusively at any such event.

(B) No money or other thing of value other than approved advertising specialties shall be given by a sponsor to anyone other than the organizations conducting the contest.

(C) Participants may be charged an entry fee, but entry shall not be conditioned upon the purchase of any of the sponsor's products.

(j) Limitations.

Nothing in this Rule shall be construed to authorize the giving of any premium, gift or goods of any sort, whether by way of sweepstakes, drawings, prizes, cross-merchandising promotions with a non-alcoholic beverage product or products or any other method if the value of the premium, gift or goods given to an individual exceeds \$0.25 with respect to beer, \$1.00 with respect to wine or \$5.00 with respect to distilled spirits.

NOTE: Authority cited: Sections 25006, 25600, 25503.1 and 25750, Business and Professions Code; and Section 22, Article XX, California Constitution. Reference: Sections 23025, 23301, 23386, 25500, 25501, 25502, 25503, 25503.1, 25600, 25611.1, 25612, 25616, 25752 and 25753, Business and Professions Code.

HISTORY

1. Amendment filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6). For prior history, see Register 74, No. 19.
2. Amendment filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
3. Amendment of subsection (h)(3) filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).
4. Repealer and new section filed 1-22-86; effective thirtieth day thereafter (Register 86, No. 4).
5. Amendment of section and NOTE filed 11-30-98 as an emergency; operative 11-30-98 (Register 98, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11-30-98 order, including further amendment of subsection (e)(2)(C), transmitted to OAL 11-25-98 and filed 1-8-99 (Register 99, No. 2).

§ 107. Retailers Required to Post Warning Notice.

The licensee of each premises licensed with an on-sale license for public premises shall maintain a clearly legible permanent sign, not less than 7" x 11" in size reading, "No Person Under 21 Allowed" at or near each public entrance thereto in such a manner that such sign shall be visible from the exterior of each public entrance. The lettering of such sign shall be no less than one inch in height. A sign of like size and content shall be maintained at a prominent place in the interior of the premises.

NOTE: Authority cited: Sections 23039, 25665, 25750, Business and Professions Code, and Section 22 of Article XX, California Constitution.

HISTORY

1. New section filed 4-18-62; designated effective 5-21-62 (Register 62, No. 8). For history of former Section 107, see Register 56, No. 19.
2. Amendment filed 10-9-67; effective thirtieth day thereafter (Register 67, No. 41).

§ 108. Notice of Suspension.

Every licensee whose licenses have been suspended by order of the department shall post two notices in conspicuous places, one on the exterior and one on the interior of his premises, for the duration of the suspension. The notices shall be two feet in length and 14 inches in width, and shall be in the following form:

NOTICE OF SUSPENSION

ALCOHOLIC BEVERAGE LICENSES ISSUED

For These Premises Have Been
Suspended by Order of the

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

For Violation of the
Alcoholic Beverage Control Act

Advertising or posting signs to the effect that the premises have been closed or business suspended for any reason other than by order of the department suspending alcoholic beverage license, shall be deemed a violation of this rule.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Amendment filed 9-27-49 designated to be effective 11-1-49 (Register 18, No. 1).
3. Amendment filed 2-28-58; effective thirtieth day thereafter (Register 58, No. 4).
4. Amendment to NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).

§ 109. Posting Notice.

After filing an application to sell alcoholic beverages at any premises, the applicant shall post on the proposed premises notice of intention to sell alcoholic beverages. The notice shall be at least two feet in length and fourteen inches in width. This notice shall be posted in a conspicuous place which can be readily observed by ordinary passersby at or near the

entrance to the premises. In the case of a vacant lot, posting shall be on a post or stake of permanent material, at the midpoint of the largest boundary fronting on a public thoroughfare at a point not more than ten feet from the sidewalk, or roadway in the absence of any sidewalk. This notice must be mounted upon heavy cardboard or wood backing affixed to the post or stake so as to be readily visible from the sidewalk or roadway.

The notice shall remain posted for at least 30 consecutive days.

NOTE: Authority cited: Sections 23985 and 25750, Business and Professions Code; Section 22 of Article XX, Calif. Constitution.

HISTORY

1. New section filed 8-28-61; designated effective 11-1-61 (Register 61, No. 17).
2. Amendment filed 11-1-63, as an emergency; effective upon filing (Register 63, No. 20).
3. Certificate of Compliance section 11422.1, Government Code, filed 2-20-64 (Register 64, No. 6).
4. Amendment filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).
5. Editorial correction of printing error in HISTORY 2. (Register 91, No. 31).

§ 110. Brand Identification for Automatic Dispensers.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Section 25609, Business and Professions Code.

HISTORY

1. New section filed 2-8-72; designated effective 3-10-72 (Register 72, No. 7).
2. Repealer filed 6-4-84; effective thirtieth day thereafter (Register 84, No. 23).

§ 111. On-Sale Publication.

NOTE: Additional authority cited: Section 23986, Business and Professions Code.

HISTORY

1. New section filed 3-2-72 as an emergency; designated effective 3-6-72 (Register 72, No. 10).
2. Certificate of Compliance filed 6-29-72 (Register 72, No. 27).
3. Repealer filed 11-6-96; operative 12-6-96 (Register 96, No. 45).

Article 17. Distilled Spirits and Wine Credit Regulations

§ 115. Distilled Spirits and Wine Credit Regulations.

NOTE: Authority cited: Sections 25500 to 25506, 25750 and 25752, Business and Professions Code.

HISTORY

1. New article 17 (§ 115) filed 10-19-53; designated effective on 2-1-54 (Register 53, No. 19).
2. Amendment, postponing effective date to 4-1-54, filed 12-28-53 (Register 54, No. 1).
3. Amendment, postponing effective date to 8-1-54, filed 2-24-54 (Register 54, No. 5).
4. Amendment, postponing effective date to 3-1-55, filed 7-9-54 (Register 54, No. 15).
5. Amendment filed 1-19-55, as an emergency, postponing effective date to September 1, 1955. Issuing agency, Department of Alcoholic Beverage Control. (Register 55, No. 2).
6. Repealer filed 8-31-55 as an emergency; effective upon filing (Register 55, No. 13).

Article 18. Standard Cases for Distilled Spirits

NOTE: Authority cited: Sections 23029, 24749, 24754, 24757, and 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Division 9 (Chapters 1-17), Business and Professions Code.

HISTORY

1. Amendment filed 11-16-55 as an emergency; effective upon filing (Register 55, No. 17).
2. Amendment filed 10-25-63; effective thirtieth day thereafter (Register 63, No. 19).
3. Amendment filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6).
4. Repealer of Article 18 (Section 123) filed 722-82; effective thirtieth day thereafter (Register 82, No. 30).

Article 19. Malt Beverage Regulations

§ 128. Certificate of Compliance.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Amendment filed 6-23-47 (Register 8).
3. Repealer filed 4-19-49 (Register 16, No. 2).

§ 130. Beer Labeling Requirements.

Draught beer and packaged beer sold in California, except for export, shall not exceed an alcoholic content of 4 percent by weight; provided, however, that bottled or canned ale, porter, brown, stout, or malt liquor may exceed such alcoholic content if it bears a label which correctly designates the contents as such ale, porter, brown, stout, or malt liquor.

All bottles or cans containing ale, porter, brown, stout, or malt liquor of an alcoholic content of 4 percent or less by weight must have firmly affixed thereto in type of not less than one-sixteenth inch in height a notice specifically certifying that the alcoholic content of the beverages in the package is not greater than 4 percent by weight. Only ale, porter, brown, stout, and malt liquor in packages bearing such labels may be sold by on-sale beer licensees.

The name and address of any manufacturer or bottler or person appearing upon any label of beer must be the true name and address of such person at the time of packaging of such product. The true name of a manufacturer or bottler or person shall be deemed to include a fictitious business name for which such manufacturer, bottler or person has duly filed a Fictitious Business Name Statement pursuant to the provisions of Section 17900 et seq. of the Business and Professions Code.

Any labels or notices affixed to beer must, if such beer is produced in this State, be affixed prior to the first sale, and in the case of beer produced outside the State and imported into this State, must be affixed prior to delivery in this State.

A copy of any label or notice affixed to beer shall, if that beer is produced in this State, be furnished to the headquarters office of the department

by the manufacturer prior to the first sale, and if that beer is produced outside this State and imported into this State, shall be furnished to the headquarters office of the department by the shipper prior to delivery in this State.

NOTE: Authority cited: Section 25750, Business and Professions Code. Reference: Sections 25200 and 25615, Business and Professions Code.

HISTORY

1. Amendment filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6). For prior history, see Register 65, No. 18.
2. Amendment filed 8-23-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 35).
3. Amendment filed 2-25-94 as an emergency; operative 2-25-94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-27-94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-25-94 order transmitted to OAL 6-3-94 and filed 7-18-94 (Register 94, No. 29).

§ 131. Tapping Equipment, Furnishing and Servicing.

Beer manufacturers may furnish to beer wholesalers, and beer wholesalers or beer manufacturers may furnish to on-sale licensees, the following items of equipment in the case of either an initial installation for a new account or a changeover of equipment from a Peerless to a Golden Gate, or other systems, or vice versa. Such equipment shall remain the property of the supplier.

Peerless

- (a) Keg
- (b) Tap rod
- (c) Valve
- (d) Beer hose
- (e) Air hose
- (f) Washers
- (g) Couplings
- (h) Clamps

Golden Gate

- (a) Keg
- (b) Air hose
- (c) Beer hose
- (d) Couplings
- (e) Vent
- (f) Taps
- (g) Valves (Golden Gate)
- (h) Clamps or wire

Suppliers may service and repair the above items of equipment from time to time as necessary.

Suppliers may not furnish to retailers and may not repair the following items of equipment:

[The next page is 23.]

- (a) Regulators
- (b) Gauges
- (c) Standards
- (d) Refrigeration
- (e) Faucets

NOTE: Authority cited: Sections 25500, 25501, 25504, 25504.5, 25510 and 25750, Business and Professions Code; Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 4-24-64; designated effective 6-1-64 (Register 64, No. 8).
2. Amendment filed 12-6-68; designated effective 1-8-69 (Register 68, No. 46).

§ 132. Out-of-State Beer Manufacturer's Certificate.

(a) Application. A beer manufacturer in the United States, who does not manufacture beer in California and desires to ship beer into this State, may make an application in person or by mail to the headquarters office of the department in Sacramento for an out-of-state beer manufacturer's certificate. Only one such certificate will be issued to any one beer manufacturer. The application shall be accompanied by the annual fee, and shall include a written undertaking and agreement by the applicant:

(1) That it and its agents and all agencies within this State controlled by it will comply with all laws of this State and all rules of the department with respect to the sale of alcoholic beverages.

(2) That it will make available both in California and from outside the State, for inspection and copying by the department, all books, documents, and records located both within and without this State, which are pertinent to the activities of the applicant, its agents and agencies within this State controlled by it, in connection with the sale and distribution of its products within this State.

(b) Investigation. Upon receipt of an application for an out-of-state beer manufacturer's certificate accompanied by the annual fee, the department shall make an investigation to determine whether the applicant qualifies for the certificate applied for, or whether issuance would be in conflict with any law of this State or rule of the department.

(c) Fees. The fee for the out-of-state beer manufacturer's certificate shall be \$50.00 per year or any portion thereof.

(d) Fiscal Year; Renewability. The certificate shall be issued on the basis of a fiscal year, commencing on July 1 and ending on June 30. The certificate may be renewed annually. Renewals must be postmarked on or before June 30 or the certificate will be cancelled effective July 1 of the new fiscal year.

(e) Nontransferable. An out-of-state beer manufacturer's certificate shall be nontransferable. The department shall cancel the certificate of any holder who has ceased doing business as an out-of-state beer manufacturer.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, California Constitution. Reference: Sections 23357.1 and 23357.2, Business and Professions Code.

HISTORY

1. New section filed 5-11-72; designated effective 6-12-72 (Register 72, No. 20).
2. Editorial correction (Register 72, No. 29).
3. New NOTE filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).

§ 134. Delivery to Temporary Licensee.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Amendment filed 9-17-47 (Register 9).
3. Repealer filed 7-23-56 as an emergency; effective upon filing (Register 56, No. 14).

§ 135. Bock Beer.

NOTE: Additional authority cited: Section 22 of Article XX, California Constitution and 38a, Alcoholic Beverage Control Act.

HISTORY

1. Amendment filed 7-2-52; effective thirtieth day thereafter (Register 29, No. 2).
2. Repealer filed 4-2-58; effective thirtieth day thereafter (Register 58, No. 6).

Article 20. Measurement of Time

§ 137. Pacific War Time.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Repealer filed 10-15-45 designated to be effective 9-30-45 (Register 2).

Article 21. Interior Illumination of Licensed Premises

§ 139. Interior Illumination.

At all times while any licensed retail premises are open for business the interior lighting maintained therein shall be sufficient to make easily discernible the appearance and conduct of all persons and patrons in that portion of the premises where alcoholic beverages are sold, served, delivered, or consumed.

NOTE: Authority cited: Section 25750, Business and Professions Code; Section 22, Article XX, California Constitution. Reference: Division 9 (Chapters 1-17), Business and Professions Code.

HISTORY

1. Amendment filed 4-8-58; designated effective 5-15-58 (Register 58, No. 6).
2. Amendment filed 2-2-77; designated effective 3-7-77 (Register 77, No. 6).

Article 22. Suspension or Revocation of Licenses

§ 141. Minor Decoy Requirements.

(a) A law enforcement agency may only use a person under the age of 21 years to attempt to purchase alcoholic beverages to apprehend licensees, or employees or agents of licensees who sell alcoholic beverages to minors (persons under the age of 21) and to reduce sales of alcoholic beverages to minors in a fashion that promotes fairness.

(b) The following minimum standards shall apply to actions filed pursuant to Business and Professions Code Section 25658 in which it is alleged that a minor decoy has purchased an alcoholic beverage:

(1) At the time of the operation, the decoy shall be less than 20 years of age;

(2) The decoy shall display the appearance which could generally be expected of a person under 21 years of age, under the actual circumstances presented to the seller of alcoholic beverages at the time of the alleged offense;

(3) A decoy shall either carry his or her own identification showing the decoy's correct date of birth or shall carry no identification; a decoy who carries identification shall present it upon request to any seller of alcoholic beverages;

(4) A decoy shall answer truthfully any questions about his or her age;

(5) Following any completed sale, but not later than the time a citation, if any, is issued, the peace officer directing the decoy shall make a reasonable attempt to enter the licensed premises and have the minor decoy who purchased alcoholic beverages make a face to face identification of the alleged seller of the alcoholic beverages.

(c) Failure to comply with this rule shall be a defense to any action brought pursuant to Business and Professions Code Section 25658.

NOTE: Authority cited: California Constitution, article XX, section 22; and section 25750, Business and Professions Code. Reference: Section 25658, Business and Professions Code; and *Proviso Corporation v. Alcoholic Beverage Control Appeals Board* (1994) 7 Cal.4th 561, 28 Cal.Rptr. 638.

HISTORY

1. New section filed 1-2-96; operative 2-1-96 (Register 96, No. 1).

§ 142. Receiving Stolen Alcoholic Beverages; Ceiling Price Violations.

HISTORY

1. Originally published 3-22-45 (Title 4).
2. Repealer filed 9-11-47 (Register 9).

§ 143. Employees of On-Sale Licensees Soliciting or Accepting Drinks.

No on-sale retail licensee shall permit any employee of such licensee to solicit, in or upon the licensed premises, the purchase or sale of any drink, any part of which is for, or intended for, the consumption or use of such employee, or to permit any employee of such licensee to accept, in or upon the licensed premises, any drink which has been purchased or sold there, any part of which drink is for, or intended for, the consumption or use of any employee.

It is not the intent or purpose of this rule to prohibit the long-established practice of a licensee or a bartender accepting an incidental drink from a patron.

NOTE: Authority cited: Sections 24200.5 and 25657, Business and Professions Code.

HISTORY

1. New section filed 5-25-54; effective thirtieth day thereafter (Register 54, No. 12).
2. Amendment filed 7-12-72; designated effective 8-14-72 (Register 72, No. 29).

§ 143.1. Employment of Minors in Public Premises.

NOTE: Authority cited: Section 25750, Business and Professions Code, and Section 22, Article XX, California Constitution.

HISTORY

1. New section filed 4-18-62; designated effective 5-21-62 (Register 62, No. 8).
2. Repealer filed 7-12-72; designated effective 8-14-72 (Register 72, No. 29).

§ 143.2. Attire and Conduct.

The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted:

(1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (1) above.

(3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Art. XX, California Constitution. Reference: Section 23001, Business and Professions Code.

HISTORY

1. New Section 143.2 filed 7-9-70; designated effective 8-10-70 (Register 70, No. 28).

§ 143.3. Entertainers and Conduct.

Acts or conduct on licensed premises in violation of this rule are deemed contrary to public welfare and morals, and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted.

Live entertainment is permitted on any licensed premises, except that:

(1) No licensee shall permit any person to perform acts of or acts which simulate:

(a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) The touching, caressing or fondling on the breast, buttocks, anus or genitals.

(c) The displaying of the pubic hair, anus, vulva or genitals.

(2) Subject to the provisions of subdivision (1) hereof, entertainers whose breasts and/or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Art. XX, Calif. Constitution. Reference: Sec. 23001, Bus. & Prof. Code.

HISTORY

1. New section filed 7-9-70; designated effective 8-10-70 (Register 70, No. 28).

§ 143.4. Visual Displays.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Art. XX, Calif. Constitution. Reference: Sec. 23001, Bus. & Prof. Code.

HISTORY

1. New section filed 7-9-70; designated effective 8-10-70 (Register 70, No. 28).
2. Repealer filed 12-12-2001; operative 1-11-2002 (Register 2001, No. 50).

§ 143.5. Ordinances.

Notwithstanding any of the provisions of Rules 143.2, 143.3 and 143.4, no on-sale licensee shall employ, use the services of, or permit upon his licensed premises, any entertainment or person so attired as to be in violation of any city or county ordinance.

NOTE: Authority cited: Section 25750, Business and Professions Code and Section 22 of Art. XX, Calif. Constitution. Reference: Sec. 23001, Bus. & Prof. Code.

HISTORY

1. New section filed 7-9-70; designated effective 8-10-70 (Register 70, No. 28).

§ 144. Penalty Guidelines.

In reaching a decision on a disciplinary action under the Alcoholic Beverage Control Act (Bus. and Prof. Code Sections 23000, *et seq.*), and the Administrative Procedures Act (Govt. Code Sections 11400, *et seq.*), the Department shall consider the disciplinary guidelines entitled "Penalty Guidelines" (dated 12/17/2003) which are hereby incorporated by reference. Deviation from these guidelines is appropriate where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation — such as where facts in aggravation or mitigation exist.

NOTE: Authority cited: Section 25750, Business and Professions Code; and Section 22, Article XX, California Constitution. Reference: Section 23001, Business and Professions Code; and Section 11425.50(e), Government Code.

HISTORY

1. New section filed 4-13-2004 as an emergency; operative 4-13-2004 (Register 2004, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-11-2004 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 68, No. 46.
2. Certificate of Compliance as to 4-13-2004 order transmitted to OAL 8-11-2004; disapproved by OAL and order of repeal and deletion filed 9-23-2004 (Register 2004, No. 39).
3. New section filed 9-23-2004 as an emergency; operative 9-23-2004 (Register 2004, No. 39). A Certificate of Compliance must be transmitted to OAL by 1-21-2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 9-23-2004 order, including amendment of section, transmitted to OAL 11-18-2004 and filed 12-16-2004 (Register 2004, No. 51).

Article 23. Administrative Procedure

§ 145. Service of Notices.

For the purpose of subdivision (c) of Section 11505 of the Government Code, notices which are required to be served by registered mail may be served by certified mail pursuant to Section 8311 of the Government Code, and shall be mailed to the licensee at the premises for which his

license is issued. Any licensee who desires to have such notices mailed to him at an address other than his licensed premises shall file with the department a specific request for that purpose, and in such case notices shall be sent to the licensee at such address. Such licensee shall notify the department of a change in address, and specifically request the department to mail notices to the changed address.

NOTE: Authority cited: Sections 25750 and 25760, Business and Professions Code; Section 22 of Article XX, California Constitution. Reference: Division 9 (Chapters 1–17), Business and Professions Code.

HISTORY

1. New section filed 11–6–45; designated to be effective 11–1–45 (Register 3).
2. Amendment filed 4–8–58; designated effective 5–15–58 (Register 58, No. 6).
3. Amendment filed 2–2–77; designated effective 3–7–77 (Register 77, No. 6).

§ 146. Verification of Protests.

HISTORY

1. New section filed 11–4–46 (Register 6).
2. Repealer filed 9–17–47 (Register 9).

Article 24. Department of Alcoholic Beverage Control—Conflict of Interest Code

§ 150. General Provisions.

The Political Reform Act, Government Code Sections 81000, *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Alcoholic Beverage Control.

Designated employees shall file statements of economic interests with this agency which will make the statements available for public inspection and reproduction. (Government Code Section 81008). Upon receipt of the statement of the Director, the agency shall make and retain a copy and forward the original of this statement to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

NOTE: Authority cited: Sections 81008, 87300 and 87304, Government Code. Reference: Section 87300, *et seq.*, Government Code.

HISTORY

1. New article 24 (section 150) filed 4–4–78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4–20–77 (Register 78, No. 14).
2. Repealer of article 24 (section 150) and new article 24 (section 150 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Amendment of text and Appendix filed 2–1–94; operative 3–3–94. Approved by Fair Political Practices Commission 1–27–94 (Register 94, No. 5).
4. Amendment of Appendix filed 5–5–2006; operative 6–4–2006. Approved by Fair Political Practices Commission 3–3–2006 (Register 2006, No. 18).

Appendix

Designated Employees

Director	A
Chief Deputy Director	A
Assistant Director, Field Division	A
Assistant Director, Administration	A
Chief Administrative Law Judge	A
Chief Counsel	B
Chief, Business Practices	B
Deputy Division Chief, ABC	B
District Administrator, Alcoholic Beverage Control	B
Supervising Investigator, Alcoholic Beverage Control	B
Investigator II, Alcoholic Beverage Control	B
Investigator I, Alcoholic Beverage Control	B
Investigator Trainee, Alcoholic Beverage Control	B
Licensing Officer, Alcoholic Beverage Control	B
Licensing Representative I and II, Alcoholic Beverage Control	B
All Attorney Classes	B
All Administrative Law Judge Classes	B
All Information Officer Classes	B
Legal Analyst	B
Legal Assistant	B
All Staff Services Manager Classes	B
Accounting Officer	C
Fiscal Officer I	C
All Information Systems Analyst Classes	C
All Data Processing Manager Classes	C
All System Software Specialist Classes	C
Business Services Assistant	C
Consultants	D

Disclosure Category

Disclosure Categories:

Category A. Designated employees in Category A must report all interests required to be reported by designated employees in Categories B and C below.

Category B. Designated employees in Category B must report:

Investments and business positions in business entities, and income received, including gifts, loans, and travel payments, from sources, that either have applications for licensing, have licenses pending, are licensed, or have been licensed by the department within two years prior to any time period covered by a statement of economic interests, and interests in real property upon which a business licensed by the department is maintained.

Category C. Designated employees in Category C must report:

Investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources, of the type that, within the previous two years, contracted with the State of California to provide services, equipment, leased space, materials, or supplies to the Department of Alcoholic Beverage Control.

Category D. Consultants in Category D must report:

Consultants shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The director may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The director’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

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Title 4. Business Regulations

Division 1.1. Alcoholic Beverage Control Appeals Board

Vol. 5

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Division 1.1. Alcoholic Beverage Control Appeals Board

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Division 1.1. Alcoholic Beverage Control Appeals Board

Article 1. General

§ 175. Authority.

NOTE: Authority cited for § 175 through 200: Section 23077, Business and Professions Code.

HISTORY

1. New Chapter 1.1 (§ 175 through 199) filed 2–3–55 as an emergency; effective upon filing (Register 55, No. 3).
2. Repealer of Chapter 1.1 (§ 175 through 199) and new Chapter 1.1 (§ 175 through 200) filed 4–19–66; effective thirtieth day thereafter (Register 66, No. 10.)
3. Repealer filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 176. Location of Offices.

HISTORY

1. Repealer filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 177. Tenses, Gender, and Number.

HISTORY

1. Repealer filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 178. Definitions.

For the purpose of these rules and regulations:

- (a) “Board” means Alcoholic Beverage Control Appeals Board.
- (b) “Department” means Department of Alcoholic Beverage Control.
- (c) Unless the context otherwise requires, the words “appellant” or “party,” include the attorney or other authorized agent of such person.
- (d) “Party” includes the department, the appellant and any person, other than an officer or an employee of the department in his official capacity, who has been allowed to appear in the proceeding before the department.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23077 and 23081, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 179. Computation of Time Limitations.

The time provided by the regulations contained in this subdivision within which any act must be performed, shall be computed by excluding the first day, but including the last day unless it is a Saturday, Sunday or holiday, in which case such day shall also be excluded.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23081, Business and Professions Code; Section 12, Code of Civil Procedure; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 180. Notices to Authorized Agents.

Whenever the records of the board indicate that a party is represented by an attorney or other authorized agent, such agent shall be entitled to a copy of all notices and decisions to which the principal would be entitled.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23077 and 23081, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 181. Administration.

HISTORY

1. Repealer filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

Article 2. Filing of Appeal

§ 183. Form of Appeal.

The notice of appeal should be typewritten or printed upon paper 8 1/2 x 11 inches in size and be double spaced.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23081, Business and Professions Code; Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 184. Contents of Notice of Appeal.

The notice of appeal shall be signed by the appellant or his authorized agent. It should state the general grounds for appeal (see Business and Professions Code Section 23084) and the specific questions to be considered by the board on review. The original and three copies of the notice of appeal shall be filed with the board and a copy shall also be served upon all parties to the proceeding before the department, including the department at its principal office in Sacramento. Such service shall be made by delivering or mailing a copy of the notice of appeal to each party. Proof of service shall be filed with the original notice of appeal.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23081 and 23084, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

Article 3. Record on Appeal

§ 187. Filing Record.

When a notice of appeal has been filed with the board, the board shall request the department to furnish appellant an itemized statement of the estimated cost of the record on appeal in accordance with the fee schedule provided in Section 69950 of the Government Code. Cost of the record on appeal shall include the filing of an original and three copies of the reporter's transcript and file transcript, accompanied by the original exhibits, with the board. Such statement of costs shall also include the cost of preparing and delivering to appellant a copy of the reporter's transcript, exhibits and file transcript, should any or all be requested by appellant. In those instances, however, where the department has previously ordered an original copy of the reporter's transcript because of action taken by it pursuant to Government Code Section 11517(c), the appellant need only pay the fee for a first copy of the reporter's transcript, plus the fee for each additional copy, as provided by Section 69950, for the record on appeal furnished to the board and appellant. Upon receipt of payment from appellant, the department shall forthwith arrange for the preparation and delivery of the record on appeal.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 1–20–78; effective thirtieth day thereafter (Register 78, No. 3).
2. Amendment filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8).

§ 188. Contents of Record.

The record on appeal filed with the board shall consist of:

(1) The file transcript, which shall include all notices and orders issued by the administrative law judge and the department, including any proposed decision by an administrative law judge and the final decision issued by the department; pleadings and correspondence by a party; notices, orders, pleadings and correspondence pertaining to reconsideration;

- (2) the hearing reporter's transcript of all proceedings;
 (3) exhibits admitted or rejected.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23083, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

§ 189. Documents Filed with Board.

In addition to the notice of appeal and the record on appeal, other documents which may be legally filed with and received by the board in connection with the appeal, shall also become part of the record.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23083 and 23085, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

§ 190. Cost of Record and Payment Therefor.

The department shall calculate the cost of the record on appeal as provided by Section 187, shall notify appellant thereof, and demand payment. Payment shall be made by appellant to the department within fifteen days after the date of issuance of such demand.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23083, Business and Professions Code; Section 69950, Government Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 1-20-78; effective thirtieth day thereafter (Register 78, No. 3).
 2. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 4. Filing of Briefs

§ 193. Filing of Briefs by Parties.

Appellant may file an opening brief, respondent may file a reply brief and appellant may thereafter file a closing brief.

(a) Form and Filing of Briefs. Briefs shall be typewritten or printed upon paper 8 1/2 x 11 inches in size. Reproduction thereof may be by any process, provided all copies are clear and permanently legible. Only one side of the paper shall be used, unless printed, and the margins shall not be less than one inch on all sides of the page. The lines shall be double spaced. Headings shall be capitalized. An original and three copies of all briefs shall be filed with the board. The original of each brief shall contain a certification that copies have been served upon or mailed to each party, his attorney or agent, as well as the department, and the attorney general's office.

(b) Time for Service and Filing. The opening brief shall be served and filed within fifteen days after the date on the notice issued by the board stating that the record on appeal has been filed with the board. The reply brief shall be served and filed within fifteen days after the filing date of the opening brief with the board. The closing brief shall be served and filed within five days after the filing date of the reply brief with the board. An extension of time within which to file a brief will be granted only upon a showing of good cause.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23081 and 23083, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment of subsection (b) filed 1-20-78; effective thirtieth day thereafter (Register 78, No. 3).
 2. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

§ 194. Briefs by Other Interested Persons.

HISTORY

1. Repealer filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 5. Oral Argument

§ 197. Oral Argument.

(a) Unless otherwise ordered by the board: (1) A party shall be allowed a maximum of 30 minutes for oral argument; (2) not more than one person on a side need be heard; (3) the appellant, or moving party, shall have the right to open and close.

(b) Continuances. Requests for continuances of oral argument will be granted only upon a showing of good cause.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23083, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment of subsection (c) filed 1-20-78; effective thirtieth day thereafter (Register 78, No. 3).
 2. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 6. Newly Discovered Evidence

§ 198. Nature of Evidence and Showing.

When the board is requested to remand the case to the department for reconsideration upon the ground that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the hearing before the department, the party making such request must, in the form of a declaration or affidavit, set forth:

- The substance of the newly-discovered evidence;
- Its relevancy and that part of the record to which it pertains;
- Names of witnesses to be produced and their expected testimony;
- Nature of any exhibits to be introduced;
- A detailed statement of the reasons why such evidence could not, with due diligence, have been discovered and produced at the hearing before the department.

Merely cumulative evidence shall not constitute a valid ground for remand.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23084 and 23085, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Amendment filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 7. Motions

§ 198.1. Motions.

The provisions of Section 193(a) as to form and filing of briefs shall apply to a motion filed with the board. Any showing in opposition to the motion of a party shall be served and filed within ten days after the date on the notice by the board providing therefor. The board may place any motion on the calendar for hearing or the board may otherwise dispose of the motion.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23081 and 23083, Business and Professions Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Repealer of Section 198.1 and new Article 7 (Section 198.1) filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 8. Dismissal of Appeal

§ 199. Dismissal of Appeal.

The board may issue an order dismissing an appeal:

(a) Upon appellant filing with the board a request to dismiss the appeal;

(b) Upon motion of a party, or the board itself, that appellant has failed to perfect his appeal by failure to timely file same or to pay the amount specified pursuant to Sections 187 and 190 of these rules;

(c) Upon certification by the department that reconsideration has been granted in the case, said dismissal to be without prejudice to the filing of a subsequent appeal; or

(d) Upon a motion by the department or other party, or upon the board's own motion, where sufficient cause exists for dismissal.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Sections 23081, 23083 and 23087, Business and Professions Code; Section 11521, Government Code; and Article XX, Section 22, California Constitution.

HISTORY

1. Renumbering of Article 7 to Article 8 and former Article 8 to Article 9 and amendment of Section 199 filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 9. Disqualification of Board Members

§ 200. Disqualification of Board Members.

A board member shall voluntarily disqualify himself/herself and withdraw from any case in which such person cannot accord a fair and impartial hearing. Any party may request the disqualification of any member by filing an affidavit before the submission of the case, stating with particularity the grounds upon which it is claimed that a fair and impartial appeal cannot be accorded by a board member. The issue raised by the request shall be determined by the other members of the board. No member of the board shall withdraw voluntarily, or be subject to disqualification, if this would prevent the board from acting in the particular case. The affidavit shall become a part of the record.

NOTE: Authority cited: Section 23077, Business and Professions Code; and Article XX, Section 22, California Constitution. Reference: Section 23075, Business and Professions Code; Article XX Section 22, California Constitution; and *Fed. Construction Co. v. Curd*, 179 C.489, 177 P.469.

HISTORY

1. Renumbering of Article 8 to Article 9 and former Article 9 to Article 10 and amendment of Section 200 filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).

Article 10. Conflict of Interest Code

§ 200.1. General Provisions.

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regulations Section 18730) which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference

and constitute the Conflict of Interest Code of the ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD.

Designated employees shall file statements of economic interests with the ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD which will make the statements available for public inspection and reproduction, (Gov. Code Section 81008). Upon receipt of the statements of the BOARD MEMBERS, the agency shall make and retain a copy and forward the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

HISTORY

1. New article 9 (sections 201-209) filed 6-17-77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4-20-77 (Register 77, No. 25).
2. Editorial renumbering of sections 201-209 to sections 200.1-200.9 (Register 78, No. 3).
3. Repealer of article 9 (sections 200.1-200.9) and new article 9 (section 200.1 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).
4. Renumbering of article 9 to article 10 filed 2-19-82; effective thirtieth day thereafter (Register 82, No. 8).
5. Change without regulatory effect amending section filed 10-28-91 pursuant to section 100, title 1, California Code of Regulations and submitted to OAL for printing only (Register 92, No. 6).
6. Amendment of section and Appendix filed 3-27-95; operative 4-26-95. Submitted to OAL for printing only pursuant to Government Code section 11346.2 (Register 95, No. 13).

Appendix

Designated Employees.

Persons holding the following positions are designated employees:

Board Members

Chief Counsel/Executive Director

Staff Counsel

*Consultants

Disclosure Category.

Designated employees shall report investments and business positions in any business entity, interests in real property, and sources of income, which are any of the following:

(1) An applicant for, or the current holder of, an alcoholic beverage license,

(2) Any premises proposed to be or currently licensed for the sale of alcoholic beverages,

(3) The holder of an alcoholic beverage license at any time within four years preceding the date the designated employee assumed office, or

(4) A premises licensed for the sale of alcoholic beverages at any time within four years preceding the date the designated employee assumed office.

*The executive officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The executive officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

* * *

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Title 4. Business Regulations

Division 2. State Athletic Commission

Vol. 5

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Division 2. State Athletic Commission

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Division 2. State Athletic Commission

(Originally Printed 3–22–45)

Chapter 1. Professional Boxing Rules

Article 1. General Provisions

§ 201. Citation.

The rules in this subchapter shall be cited as the “Professional Boxing Rules.”

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18611, Business and Professions Code.

HISTORY

1. New section filed 6–11–84; effective thirtieth day thereafter (Register 84, No. 24). For prior history, see Register 82, No. 8.
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Editorial renumbering only of former section 201 to section 201.5, and editorial renumbering only of former division 2 (section 200 “Citation”) to division 2 (section 201) to correct duplication of section numbers (Register 90, No. 21).

§ 201.5. Definitions.

As used in this chapter:

- (a) “commission” means the State Athletic Commission;
- (b) “code” means the Business and Professions Code;
- (c) “rules” means the Boxing Rules.
- (d) the terms “club” and “promoter” are synonymous and used interchangeably, and include any person, partnership, club, corporation, organization or association conducting, holding or giving boxing contests.
- (e) the masculine gender includes the feminine gender.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18621 and 18622, Business and Professions Code.

HISTORY

1. Originally printed 3–22–45.
2. Revision filed 5–23–47 (Register 8).
3. Repealer and new subchapters 1–3 filed 9–23–59; effective thirtieth day thereafter (Register 59, No. 16).
- (ED. NOTE—For changes intervening Register 8 and Register 59, No. 16, as to specific sections, see Registers 13, No. 6; 15, No. 2; 17, No. 1; 18, No. 4; 20, No. 6; 24, No. 3; 25, No. 6; 26, Nos. 4 and 7; 30, No. 1; 53, No. 3; 54, Nos. 1, 3, 5, 23, 25 and 27; 55, Nos. 16 and 17; and 56, Nos. 9, 13 and 17).
4. Repealer and new subchapters 1–3 refiled 12–14–59; effective thirtieth day thereafter (Register 59, No. 21).
5. Repealer and new section filed 1–30–64; effective thirtieth day thereafter (Register 64, No. 3).
6. Repealer of subchapter 1 (articles 1–10, sections 201–366, not consecutive) and new subchapter 1 (articles 1–12, sections 201–416, not consecutive) filed 2–23–84; effective thirtieth day thereafter (Register 84, No. 8). For prior history, see Registers 81, Nos. 49 and 15; 80, Nos. 19 and 15; 79, Nos. 49 and 10; 77, Nos. 48 and 3; 76, Nos. 40, 30 and 3; 75, Nos. 49 and 37; 73, Nos. 45, 35, 25, 9 and 3; 72, No. 16; 71, No. 31; 70, Nos. 50 and 8; 68, No. 37; 67, Nos. 51, 39 and 4; 66, No. 15; and 64, No. 18.
7. New subsection (e) filed 6–11–84; effective thirtieth day thereafter (Register 84, No. 24).
8. Change without regulatory effect of NOTE (Register 87, No. 5).
9. Editorial renumbering only of former section 201 to section 201.5 (Register 90, No. 21).

§ 202. Filing of Applications and Reports.

Any application or report required under law or any rule of the commission to be filed with the commission, unless otherwise specified, shall be filed at the commission’s general office at 1424 Howe Avenue, Suite #33, Sacramento, California 95825–3217, or 5757 West Century Boulevard, GF–16, Los Angeles, California 90045.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18612, 18642 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Change without regulatory effect amending section filed 12–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).
3. Amendment filed 2–29–2000; operative 3–30–2000 (Register 2000, No. 9).

§ 204. Forms.

Ring officials, licensees and applicants for licenses shall submit to the commission such forms, records and statements at such times and in such manner as directed by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18612, 18642 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 205. Filing of Change of Address.

Every person, corporation, association or other organization holding a license issued by the commission, or any such person or entity with an application on file with the commission shall immediately notify the commission in writing at one of its offices of any and all changes of address, giving both the old and new address.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18641 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 206. Authority of Employees.

The jurisdiction, duties and responsibilities of all commission representatives and employees shall be established by the executive officer subject to the approval of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18613, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 208. License Fees.

Each application for a license to conduct or operate a professional boxer’s gymnasium within the meaning of Section 18685 of the code shall be accompanied by the annual license fee of \$10.00. Every such license expires at midnight on December 31 of each year.

NOTE: Authority cited: Section 18611 and 18648, Business and Professions Code. Reference: Sections 18640, 18641 and 18653, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

Article 2. Licenses and Applications

§ 210. Application for License; Contents, Falsification.

(a) Applications for licenses shall be in writing on a form supplied by the commission and shall be verified under oath by the applicant. Every license issued shall be subject to the conditions and agreements set forth in the application therefor, the statutes and laws relating to boxing and wrestling and the rules and regulations of the commission.

(b) Falsification in whole or in part of a material fact or presentation on any application for a license shall result in a license being denied, and if previously granted, revoked unless otherwise ordered by the commission.

NOTE: Authority cited: Section 18611 and 18648, Business and Professions Code. Reference: Sections 18640, 18641, 18642 and 18661, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 211. Fingerprints and Photographs.

(a) An applicant for any license issued by the commission shall submit two classifiable sets of fingerprints at the time the initial application is filed with the commission, or at such other times as deemed necessary by the commission. The applicant shall also furnish two passport-size photographs as required by the commission.

(b) This rule applies to any individual applying for a promoter’s license or any shareholder, officer or director signing an application for a promoter’s license in the name of a club organization, corporation, or association.

NOTE: Authority cited: Section 18611 and 18648, Business and Professions Code. Reference: Sections 18640, 18660, 18661 and 18840, Business and Professions Code.

HISTORY

1. Amendment filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

§ 212. Use of Ring Names.

Boxers and wrestlers may assume and use ring names, but the right to use any certain ring name is subject to the approval of the commission and may be denied either at the time of presenting application for license, or later, should reason for such denial be brought before the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18641 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 213. Promoter's License.

In order to be issued a boxing promoter's license, an applicant shall meet all the following requirements:

(a) The applicant, or at least a corporation or partnership, shall meet the requirements for licensure as a matchmaker, or in the alternative submit evidence that the promoter employs a licensed matchmaker.

(b) Provide evidence that the promoter will have complete control over the sale of tickets, collection of tickets, counting of tickets, and preparation or revenue reports, and supervision over the box office employees, ticket takers and ushers and security for each event promoted. In the alternative a promoter may submit for review by the commission an agreement between the promoter and the facility in which events will be conducted relating to the sale and accounting of tickets and revenues, preparation of required reports, the supervision of box office employees, ticket takers and ushers, and security of each event.

(c) Provide evidence that the facility or facilities in which events will be held meet state and local fire and safety requirements and have dressing rooms and facilities which meet the requirements of Rules 292, 293 and 294.

(d) Pass a written examination administered by the commission on the fundamentals of boxing and California law and regulations relating to the practice of boxing.

NOTE: Authority: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18648, Business and Professions Code.

HISTORY

1. New section filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

§ 214. Professional Boxer's License—HIV/HBV Testing.

(a) As used in Section 18712(a) of the code:

(1) The phrase "within 30 days prior to the date of application" means that the blood test will be accepted for licensure purposes for 30 days from the date of the test report.

(2) The phrase "documentary evidence satisfactory to the commission" means the original or a copy of the test report on letterhead of the the laboratory, accompanied by the applicant's declaration under penalty of perjury that the report represents the applicant's HIV/HBV test results.

(b) The tests described in Section 18712(a) of the code shall be referred to collectively as the "HIV/HBV tests."

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18712, Business and Professions Code.

HISTORY

1. New section filed 6-16-97; operative 6-16-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25). For prior history, see Register 94, No. 50).
2. Repealer and new subsection (a)(1) filed 3-20-2001; operative 4-19-2001 (Register 2001, No. 12).

§ 215. Manager Acting As Second.

A licensed manager may act as a second without the necessity of a second's license.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 216. License Required.

Boxer and managers licensed in other jurisdictions signing a contract with a promoter to box in this state shall have made application for a license with this commission and the boxer shall have been issued a license prior to signing any contract. Failure to comply with this rule may result in denial of any application received from such boxer or manager pending a hearing before the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 217. Matchmaker's License.

In order to be licensed as a matchmaker, an applicant shall pass a written examination administered by the commission on California laws and regulations relating to boxing. The examination may be waived if the applicant possesses a current and valid license as a matchmaker in another state or country and has not been subject to any disciplinary action.

NOTE: Authority: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18648, Business and Professions Code.

HISTORY

1. New section filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

§ 218. Manager's, Second's and Timekeeper's License.

(a) **Boxing Manager.** In order to be issued a boxing manager's license, an applicant shall pass a written examination administered by the commission on the fundamentals of boxing, the management of boxers, and California laws and regulations relating to boxing. The examination may be waived if the applicant possesses a current and valid license as a boxing manager in another state or country and has not been subject to any disciplinary action.

(b) **Boxing Second.** In order to be issued a boxing second's license, an applicant shall meet all the following requirements:

(1) Pass a written examination administered by the commission on the fundamentals of boxing and California laws and regulations relating to boxing.

(2) Perform a demonstration of competence by demonstrating the duties of a second before a representative of the commission.

(3) The examination and demonstration of competence may be waived if the applicant possesses a current and valid license as a boxing second in another state or country and has not been subject to any disciplinary action.

(c) **Timekeeper.** In order to be issued a timekeeper's license, an applicant shall meet all the following requirements:

(1) Pass a written examination administered by the commission on the California laws and regulations relating to boxing.

(2) Perform a demonstration of competence by demonstrating the duties of a timekeeper before a representative of the commission.

(3) The examination and demonstration of competence may be waived if the applicant possesses a current and valid license as a timekeeper in another state or country and has not been subject to any disciplinary action.

NOTE: Authority: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642 and 18661, Business and Professions Code.

HISTORY

1. Renumbering of former Section 218 to Section 219, and new Section 219 filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 219. Temporary Permits.

Pending investigation of the qualifications or fitness of an applicant for a license, the commission may grant such applicant a temporary license to act in the capacity for which a license is required. The granting of a temporary license shall, however, carry no presumption of the qualification or fitness of such applicant having a license, and the same may at any time be summarily terminated in the event the application for a license is denied by the commission. No such temporary permit shall be

issued to any boxer whose application is not accompanied by satisfactory physical and eye examination reports from duly licensed physicians.

All temporary licenses issued by the commission shall be valid for a period not to exceed 120 days. Under no circumstances shall any temporary license extend from one license year to another.

NOTE: Authority cited: Sections 18611 and 18679, Business and Professions

Code. Reference: Section 18679, Business and Professions Code.

HISTORY

1. Renumbering of former Section 218 to Section 219 filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).
2. Amendment of section and NOTE filed 5-14-96; operative 6-13-96 (Register 96, No. 20).

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Article 3. Contracts and Financial Arrangements

§ 220. Form of Contract.

Contracts between boxers and managers and between boxers or managers and licensed clubs shall be executed on printed forms approved by the commission. The commission may recognize or enforce a contract not on its printed form if entered into in another jurisdiction. No other contract or agreement may be recognized or enforced by the commission. NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642 and 18854, Business and Professions code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-24-90; operative 11-23-90 (Register 90, No. 47).

§ 221. Provisions of Contract.

The original of all contracts entered into between managers and boxers shall be placed on file with the commission at the time it is approved pursuant to Rule 222. Except as provided below, a contract becomes null and void if at any time during its term the manager, after notice from the commission, is not licensed by the commission. If a manager is not licensed because the license has been revoked or suspended for 60 calendar days or more by the commission, all contracts with the manager shall become void on the 30th day after the date of the order of revocation or suspension unless a court of competent jurisdiction, upon notice to the commission, issues an order staying the commission's order within the 30-day period. If a manager is not licensed because the license has been suspended by the commission for less than 60 calendar days, all contracts with the manager are voidable by the boxer if written notice is given by the boxer to the manager and to the commission within the period of license suspension. No manager or group of managers shall be allowed to participate in more than 33 1/3 percent of the gross ring earnings of the boxer. No assignment of any part or parts of the boxer's or manager's interest in a contract, filed and approved by the commission, shall be permitted without the approval and consent of the commission. The consent to assign shall not be granted unless a copy of the proposed assignment is submitted to the commission for its approval. No manager may negotiate or sign for matches for a boxer not under contract to him. Any boxer not having a contract with a licensed manager shall sign for his own contests and receipt for his full purse. All disputes between the parties to the contract, including the validity of the contract, shall be arbitrated pursuant to the provisions of the contract.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18643 and 18854, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section filed 7-17-96; operative 8-16-96 (Register 96, No. 29).

§ 222. Execution of Contract.

Unless otherwise directed by the commission, a contract between a boxer and a manager is not valid unless both parties appear at the same time before the commission or a commission representative and it receives written approval. No contract shall be approved between a manager and a boxer for a period exceeding five years. No option to extend the initial period shall be permitted.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18643 and 18840, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 223. Number of Boxers.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642 and 18842, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

2. Repealer filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 224. Advances by Manager, Accounting For.

Any manager who advances or loans any money to any boxer or incurs indebtedness on behalf of any boxer shall furnish a statement under penalty of perjury to the boxer every ninety days. The statement shall be specific and shall set forth as to each transaction or item at least the following information: the amount of money involved, the date that the indebtedness occurred, the purpose of the indebtedness, and the name of the person to whom the debt is owed.

The manager shall obtain the boxer's signature and date of signature on each accounting and within ten days after furnishing the accounting to the boxer, the manager shall file with the commission a true copy of the accounting.

If the boxer refuses to date and sign the accounting, the manager shall file the accounting with the commission along with a statement that the manager provided the boxer with the accounting but that the boxer refused to date and sign it and the reason given by the boxer if any.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18848, 18852 and 18538, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 225. Manager's Written Report.

The manager's written report required to be filed with the commission under Section 18852 of the code shall itemize and specify each expense listed as a training expense and set forth with regard to each training expense itemized at least the date the expense was incurred and the kind of expense involved.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18852, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 87, No. 5).
2. Change without regulatory effect amending section heading filed 12-16-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).

§ 226. Expiration of Contract.

No manager shall be allowed to contract for the services of a boxer under his management for a match to take place on a date after the expiration of the contract between the boxer and manager.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Editorial correction of Reference cite (Register 95, No. 8).

§ 230. Contract Provisions.

(a) No verbal agreement or written agreement other than a contract on the commission's official form shall be accepted by the commission.

(b) No contract between a promoter and manager or boxer shall be enforced by the commission until all contracts between the promoter and the contestants for a particular match are filed with the commission and meet the requirements of these rules and the provisions of the code applicable to professional boxing.

(c) Contracts are prohibited wherein a certain sum other than federal, state or local government taxes is taken by the club from the gate receipts or, where applicable, receipts from the sale, lease, transfer, or other exploitation of broadcasting and television rights, before a boxer is paid a percentage of the balance of said receipts for his or her services. Deductions may be allowed only if the amount to be deducted is clearly specified and itemized in the contract signed by the club with the boxer. If the commission determines that the deductions are not sufficiently itemized and specific, it may disallow such deductions.

(d) "Blanket contracts" or options on a boxer's services shall not be recognized unless written approval is obtained from the commission.

(e) Contracts wherein a boxer agrees to accept a certain percentage for his services with the understanding that at the same time he is to pay his opponent a stipulated amount of this percentage are not acceptable to the

commission unless such a contract is submitted to the commission for examination and approval.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18660, 18661 and 18854, Business and Professions Code.

HISTORY

1. Amendment filed 12–17–86; effective thirtieth day thereafter (Register 86, No. 51).

§ 231. Failure to Appear.

(a) Any contestant absenting himself from a show in which he has signed or has been signed by his duly licensed manager to appear, without a written valid excuse or a certificate from a commission physician in advance in case of physical disability, is subject to disciplinary action.

(b) Any boxer who files a certificate from a commission physician stating that he is unable to fulfill a contract on account of physical disability shall on being restored to the eligible list, fulfill his contract with the same opponent or a suitable substitute at the club specified in the contract within a reasonable time, such period to be set by the commission, unless the boxer is released from the contract by mutual agreement.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18861, Business Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 232. Payment of Contestants.

All contestants shall be paid in full according to their contracts, and no part or percentage of their remuneration may be withheld except by order of an official of the commission, nor shall any part thereof be returned through arrangement with the boxer or his manager to any matchmaker, assistant matchmaker, or club official. The boxer or manager may not assign his respective share of the purse, or any portion thereof, without the approval of the commission, upon written request filed with the commission at least 72 hours before the contest.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18854, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 233. Time and Manner of Payment.

All payment of purses shall be made immediately after the contest or exhibition, or, in case of a percentage contract, immediately after the percentage is determined by the commission inspectors unless otherwise ordered by the commission.

The club's authorized representative shall, unless otherwise ordered by the commission's representative in the club office, deliver check or checks made out by the club as payor to all parties entitled to payment. The club shall take a receipt for all payments made by checks, and deliver a copy of such receipt to the commission. The form of this payoff sheet shall be furnished by the commission and completed by the inspector.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18854, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 234. No Decision Bout.

In the event the referee fails to render a decision at the termination of any bout, the club shall deliver payment checks covering such bout to the commission representative for determination of payment to boxers and their managers.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18854 and 18860, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

Article 4. Conduct of Promotions

§ 240. Approval of Contestants.

(a) All boxing contests shall be approved by the executive officer or his designee. Main event contracts shall be placed on file with the commission for approval at least 72 hours prior to the event unless an exception is made by the executive officer or his designee. Contracts for all other boxers contending on the card shall be filed prior to the scheduled weigh-in time for the event unless an exception is made by the executive officer or his designee. No promoter may release the names of contestants to the media or otherwise publicize a contest unless a contract has been executed between the parties and the contest is approved by the executive officer or his designee.

(b) The grounds for denial of a promoter's request to hold a boxing contest are as follows:

(1) The failure of the promoter or any person connected with the promotion and under the jurisdiction of the commission to comply with any statute or rule regulating boxing in California.

(2) The contest would tend to be a mismatch based on the record, experience, skill and condition of the contestants.

(3) The commission does not have adequate staff to enforce the statutes and rules regulating boxing enacted and adopted to protect the health, safety and welfare of the participants and consumers and guarantee the collection of revenue due to the state from the contest and all ancillary rights incidental thereto.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18661 and 18665, Business and Professions Code.

HISTORY

1. Amendment filed 4–12–85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 241. Approval of 12– or 15–Round Contests.

No club may schedule or advertise a 12–round contest or a 15–round championship boxing contest without written approval of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18720, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 242. Number of Rounds Scheduled.

Clubs shall not schedule less than 26 rounds of boxing, nor more than 40 rounds, except with the approval of the commission for any one program. A standby bout shall be provided in the event an arranged card breaks down, and if it is necessary to put on another bout in order to meet the minimum requirement.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 243. Matches by Whom Made.

No match shall be made on behalf of any club or promoter except by the promoter, or a licensed matchmaker or assistant matchmaker.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18641, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 246. Postponement.

If, through inclement weather (in case of any outdoor show) or other happening not within the control of the club, a postponement becomes necessary, the commission may grant an extension of the contracts and set a new date, and the action of the commission if a show called off shall be binding upon all parties to the contracts. A small advance sale shall not

be regarded as legitimate reason for a postponement. Indoor boxing and wrestling shows shall not be canceled for any reason except with the written approval of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 247. Notice of Change in Program.

Notice of any change in announced or advertised programs for any main event boxing contest shall be filed with the commission and the press at least 24 hours before the contest. Notice of such change or substitution shall also be conspicuously posted at the box office, and announced from the ring before the opening contest. If any of the patrons desire to have the price of their tickets refunded, such refund shall be made imme-

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diately if the tickets or the ticket stubs are presented at the box office. The box office shall remain open a reasonable length of time to redeem such tickets.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 248. Substitutions.

Substitutions shall not be permitted in a main event contest except in cases of emergency where the commission finds such action is justified and then only where the substitute has been approved by the commission in accordance with these rules.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Repealer and new section filed 6-11-84; effective thirtieth day thereafter (Register 84, No. 24).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 249. Substitute Boxers.

If a substitute boxer who is requested to appear at any club for any show is not used, he shall be used on the next succeeding show staged by the club or shall be reimbursed by the club for training expenses and transportation.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 252. Solicitation in Arena.

No soliciting of any kind by any individual or organization shall be allowed in any boxing or wrestling arena without the written permission of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640 and 18641, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 253. Drinks.

Clubs shall be responsible to see that all drinks are dispensed in paper cups.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 254. Introduction from Ring.

No person other than a boxer, wrestler, or person officially identified with the sport, shall be introduced from the ring, except with specific authority from the commission representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

Article 5. Control of Sales; Revenue

§ 260. Approval of Sale of Tickets.

The sale of tickets to an event is prohibited until there is a current seating plan on file with the commission applicable to the event's arena. Any change in the seating plan submitted also shall be filed prior to the sale of any tickets intended for use with the changed arrangement.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18661, 18665 and 18700, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 261. Complimentary Tickets.

- (a) No club or employee shall sell complimentary tickets.

All clubs shall be held responsible for the actions of their employees in this connection.

(b) A complimentary ticket is a priced flat ticket for which no charge is made. Complimentary tickets shall be over stamped with the wording "Complimentary—Not to be sold" on the printed face of the ticket. The over stamp shall include the stub end of the ticket retained by the ticket holder. The promoter shall retain a clipped end of each complimentary ticket in the box-office.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 262. Courtesy Passes.

(a) Upon receipt of written permission from the commission, licensed clubs may issue script, exchange slips, courtesy or advertising passes or such other types of passes as may be approved by the commission.

Approved passes shall have plainly printed thereon the date of the show, as well as the value and the number of seats to which the pass entitles the bearer thereof. The pass shall be exchanged at the box office for a ticket and the holder shall present such ticket for admission to the ticket taker at the door, the rest of the ticket other than the stub, remaining in the box office to be checked as unsold tickets against the passes in the locked ticket boxes. Both ends of the ticket and the pass must be punched or clipped.

(b) If a club issues passes good only for general admission tickets, such passes shall be printed as specified above. The bearer shall exchange the pass for a ticket which shall be sold from a special roll, the ticket shall be presented for admission to the ticket taker, who shall deposit it in the locked ticket box and passes shall remain in the ticket office, to be checked as unsold tickets against the number of tickets taken from the special roll as shown by the opening and closing numbers. No pass shall be issued for more than one general admission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18824 and 18872, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 263. Ancillary Rights.

Whenever a club, promoter, matchmaker, assistant matchmaker or anyone else acting for or under the management or control of the club is negotiating for the sale, lease, transfer, or other exploitation of broadcasting and television rights of a contest, match, or exhibition, the club shall file with the commission no later than three days before the contest, match or exhibition a copy of any and all contracts which exist at the time for the sale, lease, transfer, or other exploitation of such rights. If no such contract is in existence at that time then the club shall file a statement under penalty of perjury setting forth the gross price or value which the club reasonably anticipates receiving directly or indirectly for such rights.

In addition to suspension, revocation, or fine, if a club violates this rule, the commission or its duly authorized representative may withhold from the club's gross receipts sufficient funds to cover any taxes which may reasonably be anticipated to be due pursuant to Section 18824 of the code.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 87, No. 5).

§ 264. Admission of Employees, Press, Commission Members.

No person other than a representative of a commission shall have the right of admission without a ticket for value, complimentary ticket or pass.

For purposes of computing whether the total number of complimentary tickets exceeds twenty-five percent (25%) of the total number of spectators pursuant to Section 18824, a complimentary ticket issued to any person listed below shall be excluded from the calculation of the twenty-five percent (25%) threshold.

(a) Bona fide employees of the management of the club and municipal or county officers on official business. Bona fide employees are:

- (1) Those persons, including directors and officers, regularly employed by, or under contract to, the club or regularly engaged in work

in business transacted there, when their duties require admission to the place, and when on duty at the time admitted; and

(2) Other persons whose admission to the place is required for the performance of some duty to, or work for, the management of the club.

(b) Newspaper reporters, photographers, telegraphers, and radio announcers, assigned to work by their recognized employers or superiors, policemen and firemen in uniform and on duty, and persons of similar vocation who are admitted with a complimentary ticket to any club for the performance of special duties in connection with any event and whose special duties are the sole reason for their presence and free admission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Editorial correction of NOTE (Register 90, No. 21).
3. New second paragraph, amendment of subsections (a), (a)(1) and (b), and repealer of subsection (c) filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 266. Printing of Tickets.

All tickets shall have the price, the name of the club and date of show printed or date stamped plainly thereon.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 267. Reduced Price Tickets.

Any ticket for a boxing event sold for less than the printed price thereon shall be over stamped with the actual price charged. The over stamp shall be placed on the printed face of the ticket as well as the stub retained by the ticket holder.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 268. Color of Tickets.

Tickets of different prices shall be printed on cardboard of different colors. Use of passout tickets is prohibited unless the club receives written permission from the commission to use them.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 269. Ticket Inventories.

Promoters shall use only tickets from a printer approved by the commission or its authorized representative. Printers shall send by mail to the district office and to the Sacramento commission office a sworn inventory of all tickets delivered to any club. This inventory shall account for any overprints, changes or extras, and a printer's sample shall be attached. Promoters shall notify printers of this requirement.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18872, Business and Professions Code.

HISTORY

1. Amendment filed 4-12-85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 271. Exchanges.

No exchange of tickets shall be made except at the box office, and no ticket shall be redeemed after the show has taken place. Tickets in the hands of agencies shall be returned to the box office not later than one hour after the show has started.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 272. Refunds.

Every club holding either boxing or martial arts matches shall have printed on the stub of every ticket sold the following statement:

"Retain this coupon in event of postponement or cancellation. Refund \$_____."

The price paid for the ticket shall be printed in the foregoing blank space, and the coupon detached and returned to the ticket holder at the entrance gate. This coupon check shall also show the name of the club and date of the contest or exhibition, and shall be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised. The surety bond shall be conditioned upon the compliance by the club with the provisions of this rule.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18681, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 273. Ticket Stubs.

Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub. The ticket taker at the door shall separate the ticket from the stub and deposit the ticket in the locked ticket box provided.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 274. Seats to Correspond to Tickets.

Ushers shall see that spectators get the seats corresponding with their ticket stubs, and that anyone occupying such seat unlawfully be asked to vacate, and if necessary be ejected.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 276. Counting Tickets.

The commission representative shall check numbers and places of ticket cans at gates and cause them to be sealed and padlocked, and after the show have them opened and tickets counted under his supervision.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18825 and 18872, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 277. Destruction of Tickets.

Tickets and stubs of every description sold or unsold, other than unsold reel tickets, used for any boxing contest or wrestling exhibition shall be removed to the commission district office for audit, if necessary, by a representative of the commission after the promoter and representative have completed computation of gate receipts and taxes due thereon. In the event tickets are not taken by a commission representative they shall be retained by the promoters for a period not to exceed six months. Such tickets may be destroyed after they have been held for at least 30 days and written permission has been granted by the commission for the destruction of such tickets. Tickets shall be kept in separate packages for each show in order that an audit can be made at any time by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18825, 18826 and 18872, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Editorial correction restoring inadvertently omitted Authority and Reference cites and HISTORY (Register 95, No. 8).

§ 278. Show Reports.

Every club shall when applicable, submit within 72 hours after the determination of every contest, match or exhibition for which an admission fee is charged and received, the following reports and documents on forms approved by the commission for each promotion it conducts or holds:

(a) Contracts between club and boxers.

(b) Club report of tax.

(c) Itemized statement under penalty of perjury of specific receipts and specific disbursements to contestants.

(d) Itemized and specific statement under penalty of perjury showing the number of tickets issued or sold, the amount of the gross receipts of value thereof, and the gross price charged directly or indirectly and no matter by whom received for the sale, lease, transfer, or other exploitation of broadcasting and television rights, and the name and business address of the person or entity from whom value has been received for the sale, lease, transfer, or other exploitation of such rights.

(e) A written contract setting forth the gross price charged directly or indirectly, and no matter by whom, received for the sale, lease, transfer, or other exploitation of broadcasting and television rights, and the name and business address of the person or entity from whom value has been received for the sale, lease, transfer, or other exploitation of such rights. No oral contracts shall be accepted by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18824 and 18832, Business and Professions Code.

HISTORY

1. New subsection (e) filed 6-17-85; effective thirtieth day thereafter (Register 85, No. 25).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 279. Videotaping.

(a) A promoter or his, her or its agent or employee shall obtain the name, address and telephone number of any person who records all or part of a boxing contest on videotape. As a condition to granting permission to videotape a boxing contest, a promoter shall also obtain the consent of such a person to obtain a copy of any videotape made of the contest if necessary to comply with a request made by the commission under subs. (b) for a copy of videotape.

(b) If requested by the commission, a promoter shall be responsible for providing the commission with a copy of any available videotape or other reproduction of a boxing contest which is made with the permission of the promoter. Such a request shall be made by the commission within 30 days after the date of the contest. The promoter shall comply with the request within 30 days of the date on which the commission's request is postmarked.

(c) Any copies made under such a request shall be at the commission's expense.

NOTE: Authority cited: Section 18611 Business and Professions Code. Reference: Sections 18640, 18824 and 18825, Business and Professions Code.

HISTORY

1. New section filed 10-24-90; operative 11-23-90 (Register 90, No. 47).

Article 6. Physical Examinations and Safety

§ 280. Examination of Boxer Applicants.

(a) Any boxer applying for a license or renewal thereof shall be examined by a physician currently licensed by this state to establish both physical and mental fitness for competition. Such examination shall be taken at such time as directed by the commission. Any boxer licensed by the commission who participates in a boxing match or contest outside the State of California may be required, upon his return to California, to again take this examination before being allowed to box in California. The results of such contests shall be reported to the nearest commission office by the licensee within 72 hours of his return to California.

(b) An examination of an applicant or licensee may be accepted by the commission if it is performed by a physician authorized to perform such examinations by the state or nation in which the examination is conducted and if it is conducted in accordance with commission instructions, including the use of applicable forms prescribed by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642, 18661 and 18711, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 281. Physical Condition of Boxer.

(a) No license shall be issued to any applicant for a boxer's license who does not meet the vision requirements of Rule 282.

(b) No license shall be issued to any boxer who has suffered cerebral hemorrhage or any other serious head injury.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642 and 18710, Business and Professions Code.

HISTORY

1. Amendment filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section heading, repealer of subsection (a) and subsection relettering filed 1-19-99; operative 1-19-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 4).

§ 282. Vision Requirements.

The commission shall deny, suspend, revoke, or place restrictions on the license of a professional or amateur boxer if it determines that the applicant or licensee cannot safely engage in boxing activities because of a visual condition, including but not limited to one of the following:

(a) Uncorrected visual acuity of less than 20/200 in either eye or 20/60 with both eyes;

(b) Corrected visual acuity of less than 20/60 in either eye, regardless of its cause;

(c) A visual field of 60 degrees or less extending over one or more quadrants of the visual field;

(d) Presence or history of retinal detachment or retinal tear unless treated by an ophthalmologist and then approved by an ophthalmologist specified by the commission who then assesses that the boxer is at no significant risk of further injury to the retina if boxing is resumed. Such assessment shall occur both within five days before and five days after the contest;

(e) Presence of primary or secondary glaucoma, whether or not such condition has been treated;

(f) Presence of aphakia, pseudophakia or dislocated lens in either eye;

(g) Any other visual condition which the commission determines would prevent the applicant or licensee from safely engaging in boxing activities.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642, 18643, 18661 and 18714, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-28-91; operative 11-27-91 (Register 93, No. 4).
3. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 283. Ability to Perform.

Before a license is issued to any boxer, the boxer shall satisfy the commission that the boxer has the ability to compete. If at any time a boxer's ability to perform is questionable, whether from reasons of health, mental condition or no longer possessing the ability to compete or for any other reason, the commission may, upon being satisfied of the boxer's lack of ability to perform, retire the boxer from further competition.

Any applicant for a boxer's license or a renewal thereof shall furnish a verified record of the applicant's last six boxing contests.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642, 18643, 18661, 18714 and 18840, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 285. Examination Ordered by Commission.

Any boxer who has been signed to a contract to box at any club may be ordered by the commission to appear at any time to be weighed by a commission representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18641, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 286. Report of Illness.

Whenever a licensed boxer is unable because of injuries or illness to take part in a contest for which he is under contract, he (or his manager) shall immediately report that fact to the commission, and the boxer shall be required to submit to an examination by a physician designated by the commission. The examination fee of the physician shall be paid by the boxer, except if the club has requested an examination, it shall pay the cost thereof.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642 and 18710, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 287. Physicians; Certification of Physicians.

The commission shall certify each year a list of commission-approved physicians who will be appointed by the commission as ringside physicians at each boxing match. The list of certified physicians shall be available in the headquarters and district offices of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18705 and 18706, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 288. Ringside Physicians.

Ringside physicians shall meet all of the following criteria:

(a) The physician shall possess a current and unrestricted license issued by the Medical Board of California or the Board of Osteopathic Examiners.

(b) A physician who has not previously been a ringside physician shall hold staff privileges in medicine, surgery, or emergency medicine in a general acute care facility accredited by the Joint Commission on Accreditation of Health Organizations.

(c) A physician who has not previously been approved as a ringside physician shall attend at least two ringside physician training clinics which are sponsored by the commission.

(d) A physician who has not previously been approved as a ringside physician shall be precepted at six (6) contests by a ringside physician, and receive a satisfactory evaluation on at least five (5) of the precepted contests. The preceptee may act as the second physician in attendance at a contest.

(e) "Ringside physician," as used in this section, means a club physician who is approved by the commission to attend boxing and martial arts contents as required by Section 18705 of the code.

NOTE: Authority cited: Sections 18611 and 18705.5, Business and Professions Code. Reference: Sections 18705 and 18705.5, Business and Professions Code.

HISTORY

1. New section filed 10-28-91; operative 11-27-91 (Register 93, No. 4).

§ 289. Medical Insurance.**HISTORY**

1. Repealer filed 4-12-85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 290. Medical Insurance for Professional Boxers.

(a) A promoter shall maintain a short-term medical assistance insurance program, approved by the commission, for professional boxers with whom it contracts for bouts to be conducted in California or shall qualify such boxers for a program which has been approved by the commission. The cost of such insurance program or coverage shall be set forth in the contract between the boxer/manager and the promoter. The promoter shall be responsible for paying any deductible amounts.

(b) "Short term medical assistance insurance," as used in this section, refers to direct expenses of medical treatment, including emergency aid, medical treatment, drugs, operations and physical therapy, arising directly from injuries incurred during a boxing contest in California which has been approved by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642 and 18643, Business and Professions Code.

HISTORY

1. Amendment filed 4-12-85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 292. Sanitation.

All clubs are held responsible for and shall correct any violation of commission rules or applicable local health department requirements regarding sanitary conditions of dressing rooms, showers, water bottles, towels or other equipment.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18700 and 18714, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 293. Examination Facilities.

Ringside physicians shall have a suitable place or room in which to make their examinations.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18714 and 18776, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Change without regulatory effect amending section filed 12-16-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).

§ 294. Emergency Equipment and Access Required.

The club shall ensure that an ambulance staffed by at least one paramedic is available at the site during a show and after a show until released by a ringside physician. The club shall also ensure that there is adequate access, as determined by a commission representative and a ringside physician on a case-by-case basis, for a medical evacuation should that become necessary.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18705 and 18706, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).
3. Amendment of section heading and section filed 6-12-2002; operative 7-12-2002 (Register 2002, No. 24).

§ 295. Only Authorized Persons in Dressing Rooms.

No one shall be allowed in the boxers' dressing rooms except their manager, seconds, news media, and commission or club representatives. The club management shall furnish a doorman in dressing rooms to enforce this rule.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 297. Weighing Time.

Contestants shall be weighed within 24 hours of the scheduled match, at a time and place designated by the commission, in the presence of a commission representative on scales approved by the commission. A club may obtain advance written permission of the commission to allow preliminary boxers to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weights shall be taken with the contestants stripped.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18728, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 298. Weights and Classes.

(a) Strawweight/Mini Flyweight 105 pounds and under
Light Flyweight/Junior Flyweight . . . over 105 pounds to 108 pounds
Flyweight over 108 to 112 pounds
Super Flyweight/Junior Bantamweight over 112 to 115 pounds
Bantamweight over 115 to 118 pounds
Super Bantamweight/Junior Featherweight . . over 118 to 122 pounds

Featherweight	over 122 to 126 pounds
Super Featherweight/Junior Lightweight	over 126 to 130 pounds
Lightweight	over 130 to 135 pounds
Super Lightweight/Junior Welterweight	over 135 to 140 pounds
Welterweight	over 140 to 147 pounds
Super Welterweight/Junior Middleweight	over 147 to 154 pounds
Middleweight	over 154 to 160 pounds
Super Middleweight	over 160 to 168 pounds
Light Heavyweight	over 168 to 175 pounds
Cruiserweight	over 175 to 195 pounds
Heavyweight	over 195 pounds

(b) No contest shall be scheduled, and no contestants shall engage in a boxing contest where the weight difference exceeds the allowance as shown in the following schedule, without the written approval of the commission. In the event contestants are in different weight classes the weight difference allowance shall be that for the lower class.

118 lbs. and under	not more than 3 pounds
119 lbs.-126 lbs.	not more than 5 pounds
127 lbs.-135 lbs.	not more than 7 pounds
136 lbs.-147 lbs.	not more than 9 pounds
148 lbs.-160 lbs.	not more than 11 pounds
161 lbs.-175 lbs.	not more than 12 pounds
176 lbs. and over	no limit

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18728 and 18733, Business and Professions Code.

HISTORY

1. Amendment filed 12-17-96; effective thirtieth day thereafter (Register 86, No. 51)
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 300. Time for Examinations.

A thorough physical and eye examination shall be given each contestant by the club physician at least one hour before the contestant enters the ring to compete. Referees also shall be given physical examinations immediately before officiating at any match.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18705 and 18706, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).
2. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 301. Rejection and Reports.

Should any contestant examined prove unfit for competition or any referee unfit for officiating, the contestant or referee shall be rejected and immediate report of that fact made to the club and the commission representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18705, 18706 and 18841, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 302. Continuous Presence of Physician.

A minimum of two (2) commission-appointed physicians shall have seats at the immediate ringside at all boxing matches. No bout shall be allowed to proceed unless one (1) of the physicians is seated at ringside. The physicians shall not leave until after the decision in the final bout. They shall be prepared to assist if any serious emergency shall arise, and shall render temporary or emergency treatments for cuts and minor injuries sustained by the contestants.

No manager or second shall attempt to render aid to a boxer during the course of a round before the ringside physician has had an opportunity to examine the boxer who may have been injured. Time out shall be called for such examination.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18705, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

2. Amendment of section and NOTE filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 303. Administration or Use of Drugs.

The administration or use of any drugs, alcohol or stimulants, or injections in any part of the body, either before or during a match, to or by any boxer is prohibited.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 304. Monsel's Solution.

The use during a boxing match of Monsel's Solution, or any similar drug or compound for the stopping of hemorrhage in the ring, is prohibited. Only preparations approved by the commission may be used to stop hemorrhage in the ring.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 305. Contestants' Appearance.

All contestants shall be clean and present a tidy appearance. It shall be at the sole discretion of the commission or its representative to determine whether facial adornments (mustaches, goatees, excessive sideburns) and length of hair presents any potential hazard to the safety of the contestant or his or her opponent, or will interfere with the supervision and conduct of the contest. The excessive use of petroleum jelly or other similar substances shall not be permitted and such substances shall be applied to the face only. Referees or the commission representative in charge shall cause any such excessive substance to be removed.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 306. Boxers' Equipment.

(a) The ring costume for each boxer on a program shall be approved by the commission, and shall include two pair of trunks, shoes, and a custom-made individually fitted mouthpiece. The commission staff shall not approve ring costumes that are so similar as to possibly cause confusion as to the identity of the contenders.

(b) In addition to the items described in subsection (a), the costume for each male boxer shall include an abdominal guard that does not extend above the boxer's hipline.

(c) In addition to the items described in subsection (a), the costume for each female boxer shall also include a breast protector and body shirt.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18725, Business and Professions Code.

HISTORY

1. Amendment filed 4-12-85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5)
3. Amendment filed 2-29-2000; operative 3-30-2000 (Register 2000, No. 9).

§ 307. Report of Injury.

All club physicians shall report on the physician's report all cases where boxers or wrestlers have been injured during a bout, or have applied for medical aid after a contest.

A boxer who has suffered a knockout or any other serious injury, whether or not arising from boxing, and who has been treated for such injury by his personal physician or has been hospitalized, shall, with his manager, promptly submit to the commission a full report from the physician.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18705, 18706 and 18710, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 308. Suspension for Disability.

Any licensee rejected by an examining physician shall be suspended until it is shown that he is fit for further competition or officiating.

Any boxer suspended for 30 days for his medical protection or when he has been suspended for a hard fight, shall take the same examination as required for the annual physical examination except as directed by the commission. The physician may require any other diagnostic procedures including an electroencephalogram or CAT scan if indicated.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18705, 18706, 18710, 18714, 18841 and 18842, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 309. Time Between Bouts.

Unless written approval is obtained from the commission, a boxer who has competed anywhere in a bout of four rounds or less shall not be allowed to box in this State until two days have elapsed. Four days shall elapse after a six-round bout, five days after an eight-round bout, six days after a 10-round bout, seven days after a 12-round bout and ten days after a 15-round bout.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18714, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

Article 7. Ring and Equipment

§ 310. Ring.

The ring shall be not less than 17 feet square within the ropes. The ring floor shall extend beyond the ropes not less than 18 inches. The ring floor shall be padded in a manner as approved by the commission. Padding must extend beyond the ring ropes and over the edge of the platform.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18724 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Change without regulatory effect amending section filed 12-16-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).

§ 311. Height of Ring.

The ring platform shall not be more than four feet above the floor of the building, and shall be provided with suitable steps for use of contestants. Ring posts shall be of metal, not more than four inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor, and shall be properly padded.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18724 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 312. Ring Ropes.

Ring ropes shall be at least four in number, not less than one inch in diameter; the lower rope 18 inches above the ring floor, the second rope 30 inches above the floor, the third rope 42 inches above the floor, and the fourth rope 54 inches above the ring floor. The lower rope shall have applied around it a padding of a thickness of not less than one-half inch and of a type and construction to be approved by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18724 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Amendment filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

§ 313. Ring Equipment.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18724 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

2. Repealer filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 318. Gloves.

(a) Gloves shall be examined by the commission representative and the referee. If padding is found to be misplaced or lumpy, or if gloves are found to be imperfect or clearly ill-fitting, they shall be changed before the contest starts. No breaking, skinning, roughing or twisting of gloves shall be permitted.

(b) Gloves for all main events shall be new, furnished by club management, and so made as to fit the hands of any contestant whose hands may be unusual in size.

(c) If gloves used in preliminary bouts have been used before, they shall be whole, clean, in sanitary condition and subject to inspection by the referee or commission representative as to condition. Any such gloves found to be unfit shall be immediately discarded and replaced with gloves meeting the above requirements.

(d) All clubs shall have on hand an extra set of eight-ounce and an extra set of ten-ounce gloves to be used in case gloves are broken or in any way damaged during the course of a bout. These extra sets of gloves will be placed in the custody of the commission representative at ringside.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18723 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. New subsection (a) designator, renumbering of former section 319 to new subsection (b), renumbering of former section 320 to new subsection (c), renumbering and amendment of former section 321 to new subsection (d) filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 319. Gloves—Main Event.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18723 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Renumbering of former section 319 to section 318(b) filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 320. Gloves—Preliminaries.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18723 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Renumbering of former section 320 to section 318(c) filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 321. Gloves—Extra Set.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18723 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Renumbering and amendment of former section 321 to section 318(d) filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 322. Gloves—Weight.

Contestants in all weights up to and including the welterweight class shall wear no less than eight-ounce gloves. In heavier classes, contestants shall wear no less than ten-ounce gloves.

When two contestants differ in weight classes, the contestants shall wear the gloves required for the higher weight classification.

All gloves must be approved by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18723 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 323. Bandages.

Bandages shall not exceed the following restrictions:

One winding of surgeon's adhesive tape, not over one and one-half inches wide, placed directly on the hand to protect that part of the hand near the wrist. Said tape may cross the back of the hand twice but shall not extend within one inch of the knuckles when hand is clenched to make a fist.

Contestants shall use soft surgical bandage not over two inches wide, held in place by not more than two yards of surgeon's adhesive tape for each hand. One 10-yard roll of bandage shall complete the wrappings for each hand.

Bandages shall be adjusted in the dressing room in the presence of a commission representative and both contestants. Either contestant may waive his privilege of witnessing the bandaging of his opponent's hands. NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18714, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 327. Gong or Bell.

There shall be a bell or gong at the ring no higher than the floor level of the ring. The bell or gong shall be of a clear tone so that the contestants may easily hear it.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 328. Equipment.

Timekeepers shall provide themselves with such equipment as prescribed by the commission and shall carry out such duties as directed by the commission representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18725, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

Article 8. Conduct of the Bout

§ 330. Officials.

The officials referred to in Section 18735 of the code shall consist of referees, judges, timekeepers, announcers, physicians in attendance at a contest or exhibition at the commission's direction in accordance with Section 18705 of the code, physicians appointed by the commission to perform any examination of boxers for licensure purposes or under Section 18711 of the code, and commission representatives. The referees, judges, physicians described in this section, commission representative and timekeepers shall be assigned by the commission.

The club may, with the approval of the commission, select the announcers at boxing contests or exhibitions held under the auspices of the club.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18705, 18711 and 18735, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)
2. Amendment filed 3-2-90; operative 4-1-90 (Register 90, No. 10).
3. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 332. Contestants Must Report.

Contestants shall report to the commission representative in charge of dressing rooms at least one hour before the scheduled time of the first match.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5)

§ 334. Persons Allowed in Ring.

No persons other than the contestants and the referee may be in the ring during the progress of a round.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 335. Referee—Instruction.

The referee shall call contestants together, either in the ring or in another appropriate location before each bout for final instructions, at which time each contestant shall be accompanied by his or her designated chief second only.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 337. Fouls in Boxing.

- (1) Hitting below the hip line.
- (2) Hitting an opponent who is down, is getting up after being down or who is hanging helplessly over the ropes.
- (3) Holding an opponent with one hand and hitting with the other.
- (4) Excessive holding or deliberately maintaining a clinch.
- (5) Wrestling, kicking, or biting.
- (6) Grabbing and/or holding the ropes.
- (7) Butting with the head or shoulder.
- (8) Hitting with the open glove, or with the butt of the hand, the wrist, the forearm, the elbow, the knee, and all backhand blows.
- (9) Deliberate use of the rabbit punch (hitting behind the head).
- (10) Striking deliberately at that part of the body over the kidneys.
- (11) Spinning and hitting.
- (12) Excessive taunting, abusive language or gestures.
- (13) Any unsportsmanlike act.
- (14) Hitting on the break.
- (15) Hitting after the bell has sounded ending the round, including the last round.
- (16) Hitting an opponent who is entangled in the ropes.
- (17) Pushing an opponent.
- (18) Continuous dropping of the mouthpiece.
- (19) Striking a blow during intervention by the referee under Rule 349.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 338. Intentional Fouling.

(a) In the case of an intentional foul, the referee may interrupt the bout for the purpose of allowing the injured boxer time to recover.

(b) Any boxer guilty of an intentional foul shall be penalized one or more points as determined by the referee. If the injured boxer is unable to continue, the offending boxer shall be disqualified, his or her purse may be withheld, and he or she may be subject to suspension. Disposition of the purse and the penalty to be imposed upon the boxer shall be determined by action of the commission or the commission's representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18738, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 339. Unintentional Fouling.

(a) When a bout is interrupted due to an injury caused by an unintentional foul, the referee in consultation with the ringside physician shall determine whether the boxer who has been fouled can continue or not. If the referee sees, or if after consultation with the judges, determines that a boxer is unintentionally fouled and if the boxer's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval.

(b) If the referee and/or the ringside physician determine that the bout may not continue because of an injury suffered as the result of an unintentional foul or because of an injury inflicted by an unintentional foul which later becomes aggravated by fair blows, the bout must be declared a draw if the bout is stopped before the bell rings to begin the fourth round. After the bell rings to begin the fourth round, the outcome shall be determined by scoring the completed rounds and the round during which the referee or ringside physician stopped the bout.

(c) When an unintentional foul causes the bout to be interrupted for the purpose of allowing the injured boxer time to recover, the referee shall penalize the boxer guilty of the foul one or more points.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18733, 18855, and 18860, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new subsections (a)–(c) filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 340. Unintentional Butt.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 341. Unfair Practices Likely to Cause Injury.

Referees shall not permit unfair practices that may cause injuries to a contestant, and are held strictly responsible for the enforcement of the rules. The only fair blow is a blow delivered with the padded knuckle part of the glove on the front or sides of the head and body above the hip line. After sufficient warning has been given the referee shall punish persistent disregard of the rules.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18730 and 18738, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 342. Penalizing Contestant.

The referee may penalize any contestant who fouls his or her opponent during a contest, by charging such contestant with the loss of points, whether such foul or fouls be intentional or unintentional. However, the referee shall use his or her own discretion in determining the number of points, if any, chargeable against the contestant in each instance, depending upon the severity or harmlessness of the foul and its effect upon the opponent. The referee shall, at the time of the infraction, inform each judge and the supervising commission representative of the nature of the foul, the identity of the offending boxer and the number of points deducted. At the conclusion of the round, the referee shall verify with the judges the identity of the boxer causing the foul and the number of points deducted in accordance with the referee's determination.

When necessary to deduct points because of fouls or other infractions of the rules, the referee shall warn the offender and at the end of the round notify both contestants of any penalties which may be assessed against either boxer.

Points deducted for any foul or infraction of the rules shall be deducted in the round in which they occur. No boxer shall be penalized in a later round by virtue of a previous foul or infraction of the rules.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18730, 18733 and 18855, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 345. The Referee Shall Have Power to Stop Contest.

The referee shall have the power to stop a contest at any stage if he or she considers it too one-sided, or if either contestant is in such condition

that to continue might subject him or her to serious injury, and in either case to render a decision in the manner prescribed by Rule 339.

Regardless of any examination by the ringside physician, if a boxer unequivocally manifests an intent to stop fighting, the referee shall immediately stop the contest. If the referee is unclear whether the boxer intends to stop fighting, then the referee shall ask the boxer if the boxer wishes to stop fighting and if the response is affirmative, then the referee shall immediately stop the contest.

NOTE: Authority cited: Sections 101.1 and 18611, Business and Professions Code. Reference: Sections 18640, 18730 and 18733, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
3. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).
4. Repealer and new second paragraph and amendment of NOTE filed 10–26–2006; operative 11–25–2006 (Register 2006, No. 43).

§ 346. Procedure Where Failure to Compete.

In any case where the referee decides that the contestants are not honestly competing, that the knockdown is a "dive," or the foul a prearranged termination of the bout, the referee shall not finish the knockdown count or disqualify for fouling or render a decision, but shall stop the bout not later than before the end of the last round and order purses of both boxers held pending investigation and disposition of the funds by the commission. The announcer shall inform the audience that no decision has been rendered.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18730 and 18733, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 347. Failure to Resume Boxing.

No contestant shall leave the ring during any one minute rest period between rounds. Should any contestant fail or refuse to resume boxing when the timekeeper indicates the start of the next round, the referee may either disqualify that contestant or award a KO decision to his or her opponent as of the round which has last been finished, unless the circumstances indicate to the referee the requirement for investigation or punitive action, in which event the referee shall not give a decision and shall order withheld the purse or purses of either or both boxers.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18730, 18855 and 18865, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 349. Method of Counting over a Boxer Who Is Down.

When the contestant is knocked down or as the result of a punch is knocked through the ropes the referee shall order the opponent to retire to a corner of the ring, pointing to the corner, and immediately pick up the count from the timekeeper. He shall audibly announce the passing of the count. No contestant who is knocked down shall be allowed to resume boxing until the referee has finished counting eight. The contestant may take the count either on the floor or standing. The timekeeper, by effective signalling, shall give the referee the correct one-second interval for his count. The referee's count is the official count.

Should the opponent fail to stay in the designated corner the referee shall cease counting until he has returned to it, and then go on with the count from the point from which it was interrupted. If the boxer who is down arises before the count of ten, the referee shall evaluate his or her ability to continue. If assured that the boxer who has just arisen is fit to continue, the referee shall without loss of time, order both boxers to go on with the contest. Should a contestant who is "down" arise before the

count of "10" is reached, and go down immediately without being struck, the referee shall resume the count where it was left off.

If the contestant taking the count is still down when the referee calls the count of 10 or if in the opinion of the referee the fighter who was knocked down is in no condition to continue, the referee shall wave both arms to indicate a knockout.

If both boxers go down at the same time, counting shall be continued as long as one of them is still down. If both boxers remain down until the count of 10 the contest shall be stopped and the decision shall be a technical draw. If at the end of a round a boxer is "down" and the referee is in the course of counting, the gong indicating the end of the round will not be sounded except for the final scheduled round. The gong will be sounded only when the referee gives the command "box" indicating the continuation of the match.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.3

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 350. A Boxer Shall Be Deemed "Down" When.

A boxer shall be deemed to be "down" when any part of his body but his feet is on the floor, or if he is hanging helplessly over the ropes. A referee may count (see Counting) a contestant out either on the ropes or on the floor.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 351. When Boxer Falls or Is Knocked from Ring During Round.

A contestant who has been wrestled, pushed, or has fallen through the ropes during a contest may be helped back by anyone and the referee shall allow a reasonable time for the return. When on the ring platform outside the ropes, the contestant shall enter the ring immediately.

Should the contestant stall for time outside the ropes, the referee shall start the count without waiting for him to re-enter the ring.

When one boxer has fallen through the ropes, the other boxer shall retire to a designated corner and stay there until ordered to continue the contest by the referee. When a boxer is knocked outside of the ropes by a legal punch, the referee shall begin the count. If at the count of eight the boxer is no longer down, he or she shall be allowed reasonable time to reenter the ring.

A contestant who deliberately wrestles or throws an opponent from the ring, or who hits him when he is partly out of the ring, and prevented by the ropes from assuming a position of defense may be penalized.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 352. Boxers Knocked Out.

A boxer who has been knocked out shall be kept in a prone position until the boxer has recovered. When a boxer is knocked out, no one is to touch him or her, except the referee who will remove his or her mouthpiece, until the ring physician enters the ring and personally attends to the fallen boxer, and issues such instructions as he or she sees fit to the boxer's handlers. If a boxer has been knocked out or if a technical knockout decision has been rendered against him by the referee, such boxer shall be placed on the commission's ill and unavailable list for such a period of time as may be recommended by the ringside physician or any approved commission physician who may examine him or her but such period of time shall not be less than 30 days.

A boxer shall not be permitted to engage in any contact boxing during this period without the approval of the commission physician.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of first paragraph filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 353. Wiping Gloves and Rinsing Mouthpieces.

(a) Before a boxer resumes boxing after having been knocked or having fallen or slipped to the floor, the referee shall wipe any accumulated debris from the boxer's gloves.

(b) When a mouthpiece is knocked out, the referee may allow the exchange to continue until there is a break in the action. Timeout shall then be called and the mouthpiece rinsed and replaced. No contestant shall be permitted to continue to box without a mouthpiece.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 354. Warning.

Ten seconds before the beginning and ending of each round the timekeeper shall give warning to the seconds of the contestants by suitable signal.

No second shall be in contact with the ring apron prior to the sounding of the bell ending the round.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. New second paragraph filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 356. Scorecard to Referee and Judges.

The commission representative in charge at all boxing shows shall, before the start of each bout, give the judges and/or referees, when the latter are used as judges, a regulation scorecard. The judges shall score each round of the bout on the card and sign it. At the discretion of the commission, individual round scorecards may be used in contests and, if so used, shall be picked up at the end of each round by the referee and delivered to the ringside inspector. At the conclusion of the contest, the commission representative may then show the cards to accredited press representatives and immediately thereafter mail or deliver the score cards with the rest of his or her reports to the commission office.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18730 and 18734, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 357. Method of Scoring.

Judges shall score all contests and determine the winner through the use of the ten point must system. In this system the winner of each round receives ten points and the opponent a proportionately less number. If the round is even, each boxer receives ten points. No fraction of points may be given.

At the termination of the round or contest, the referee shall pick up the cards of the judges. The referee shall then deliver the cards to the commission representative assigned to check and total them. The majority opinion shall be conclusive and if there is no majority then the decision shall be a draw unless otherwise determined by the referee or commission representative. When the commission representative has completed verifying and totalling the scores, the ring announcer shall be informed of the decision and shall announce the decision.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18734, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 358. Announcing Winner.

At the termination of all boxing bouts the winner shall be announced by the announcer and the referee shall raise the winner's hand.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 360. Abuse of Officials.

No licensee shall verbally or physically abuse an official or commission representative.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 361. Seconds: Number and Costume.

Each contestant may have four seconds of the contestant's choice and each such second while assisting in the boxer's corner shall present a neat and tidy appearance. Only one of the seconds may be inside the ring ropes between rounds with no more than two seconds on the apron. One second must remain on the floor.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 362. Excessive Coaching.

A second shall not excessively coach a boxer during a round and shall remain seated and silent when so directed by the commission representative on duty.

Excessive coaching may lead to point deduction by the referee, ejection from the venue, and/or disciplinary action by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Repealer and new section filed 6–11–84; effective thirtieth day thereafter (Register 84, No. 24).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section heading and new second paragraph filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 363. Throwing Water Prohibited.

Excessive use of water and/or ice between rounds is prohibited. The designated chief second shall be responsible to assure that the corner is dry at the start of each round.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 364. Determining Defeat.

A manager or chief second of a contestant may toss a towel into the ring in token of defeat. However, such manager or chief second shall follow the towel into the ring as soon as it is possible to do so.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 365. Fans and Towels.

Fans and swinging of towels are prohibited.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 368. Change of Decision.

A decision rendered at the termination of any boxing contest is final and shall not be changed unless following the rendition of a decision the commission determines that any one of the following occurred:

- (a) There was collusion affecting the result of any contest;
- (b) The compilation of the scorecard of the judges, and the referee when used as a judge, shows an error which would mean that the decision was given to the wrong boxer;
- (c) There was a violation of the laws or rules and regulations governing boxing which affected the result of any contest.
- (d) A petition to change a decision shall be in writing and filed by a boxer or the boxer's manager within five (5) calendar days from the date the decision was rendered.

(e) If a petition to change a decision is not filed in writing within five (5) days of the decision, the commission may, upon the vote of at least a majority of the commissioners present, hold a hearing to change the decision at any time.

If the commission determines that any of the above occurred with regards to any contest then the decision rendered shall be changed as the commission may direct.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of subsections (b)–(c) filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).
3. New subsections (d) and (e) filed 5–14–96; operative 6–13–96 (Register 96, No. 20).

Article 9. Referees and Judges**§ 370. Commission Shall Select Referee.**

The commission or its duly authorized representative shall select and assign all referees. A licensee who wishes to protest the assignment of a referee or judge, shall file a written protest with the commission at least five days prior to the scheduled contest and shall state the reason for the protest. The protesting licensee and the referee and/or judge shall be given thereafter a hearing before a commission representative and the representative shall make such disposition of the protest as the facts may justify.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18730, Business and Professions Code.

HISTORY

1. Repealer and new section filed 6–11–84; effective thirtieth day thereafter (Register 84, No. 24).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment filed 2–29–2000; operative 3–30–2000 (Register 2000, No. 9).

§ 371. Referee's License.

(a) In order to be licensed as a referee, an applicant shall meet all the following requirements:

(1) Have demonstrated prior experience in refereeing and judging boxing matches and perform in a series of training sessions as a referee to successfully demonstrate proficiency. Training sessions shall be conducted by a commission representative or commission appointed licensed referee(s) and shall be approved by the commission.

(2) Be found after examination by a licensed physician to be physically and mentally fit to referee a boxing contest and to have uncorrected visual acuity of at least 20/100 in both eyes. Weight shall be proportionate to height in accordance with the standards of the American Medical Association in effect at the time of the effective date of this regulation.

(3) Be in good physical condition with the speed and reflexes in the ring necessary for the protection of the boxers.

(4) Pass a written examination administered by the commission on the fundamentals of boxing, refereeing and judging boxing matches and contests, and California law and regulations relating to boxing.

(5) Perform in a series of training sessions as a judge to successfully demonstrate proficiency. Training sessions shall be conducted by a commission representative or commission-appointed licensed referees or judges.

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(6) These requirements may be waived for any applicant who is licensed and in good standing with another state athletic commission or any commission-approved sanctioning body such as the World Boxing Council, World Boxing Association, International Boxing Federation, and World Boxing Organization.

(7) In order to renew a referee's license, a referee shall comply with subsections (b) and (c) in addition to any other requirements for renewal set forth in the law or these regulations.

(b) A person who possesses a valid California license as a referee may judge a boxing contest without the need to obtain a judge's license.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18731 and 18734, Business and Professions Code.

HISTORY

1. Repealer and new section filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 372. Referee's Uniform.

Referees shall wear such apparel as may be approved by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 373. Fees for Officials.

At all boxing events each timekeeper, referee and judge on duty directed by the commission to be in attendance thereat, shall be paid by the club such fee as the commission shall order, in accordance with the schedule furnished to the club and on file with the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18731 and 18734, Business and Professions Code.

HISTORY

1. Amendment filed 4-12-85; effective thirtieth day thereafter (Register 85, No. 15).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section heading and section filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 375. Referee's Physical Examination.

(a) In addition to any other qualifications for referees established by the commission, each applicant for a boxing referee's license who has not been previously licensed and examined shall submit to an initial physical examination which shall include all tests necessary to determine an applicant's physical fitness, agility, reflexes, and reaction time as specified by the commission which examination shall be taken at a facility and by a physician or physicians specified by the commission. The cost of the examination shall be the responsibility of the applicant.

(b) All boxing referees, in addition to being examined by a physician prior to officiating, shall submit to an annual regular examination to establish their physical fitness to perform as a referee.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18660 and 18661, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of subsection (b) and repealer of subsection (c) filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 376. Grading of Referee's Performance.

(a) It shall be the duty of the assigned commission representative to evaluate each boxing referee's performance for each contest presided over by the referee. The evaluation shall result in a grade of satisfactory, unsatisfactory, or needs improvement. The grade shall be arrived at by considering, among other things, the referee's reflexes, and overall ability to direct and control the contest in a manner designed to ensure the

protection of the participants and to obtain the contestants' compliance with the statutes and rules of the commission applicable to the particular contest. The evaluator may include written comments where a satisfactory grade is rendered but shall make specific written comments where a grade of unsatisfactory or needs improvement is rendered. The grade and any comments pertaining thereto shall be filed with the executive officer in the Sacramento office and may be inspected or copied by the referee or anyone designated in writing by the referee so graded. Any referee wishing to protest an evaluation shall do so in writing within 30 days after the evaluation has been served on the referee.

(b) If a referee files a written protest of any evaluation, the executive officer or that person's designee shall, in consultation with the evaluator, discuss the evaluation with the referee. Where the evaluation was unsatisfactory or needs improvement, the referee shall be given recommendations for improving his or her performance.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18730, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 10-30-95; operative 10-30-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).
3. Redesignation and amendment of former section as subsection (a) and new subsection (b) filed 11-20-2001; operative 12-20-2001 (Register 2001, No. 47).

§ 377. Hearing to Remove Referee's License.

(a) At any time during the course of a boxing contest should it become apparent to any duly authorized representative of the commission that any referee is not discharging his responsibilities in a manner which ensures the safety of the participants, a written report shall be filed with the executive officer. The referee shall be notified that he shall not be assigned to referee another contest until a hearing is held. If the referee requests a hearing, a hearing shall be held within thirty days of the request. The commission itself may conduct the hearing, or it may delegate this responsibility to any duly authorized representative of the commission, who shall then make a recommendation to the commission in the matter. The hearing shall be held to determine whether the referee's license shall be revoked or suspended or other appropriate action taken by the commission. The decision of the commission shall be final.

(b) If the executive officer becomes aware of two or more bouts where a referee has not discharged the referee's responsibilities with the requisite skill to ensure the safety of the participants, the executive officer shall notify the referee of his or her specific deficiencies and each date and bout where the deficiencies were noted. The executive officer may consider all bouts over which the referee presided, regardless of whether the referee received any formal evaluation and regardless of whether that evaluation was satisfactory. The referee may request a hearing within thirty days from the date of the notification. If the referee requests a hearing, a hearing shall be held within thirty days of the request. The commission itself may conduct the hearing, or it may delegate this responsibility to any duly authorized representative of the commission, who shall then make a recommendation to the commission in the matter. The hearing shall be held to determine whether the referee's license shall be revoked or suspended or other appropriate action taken by the commission. The decision of the commission shall be final.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18730 and 18855, Business and Professions Code.

HISTORY

1. Repealer and new section filed 6-11-84; effective thirtieth day thereafter (Register 84, No. 24).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Redesignation and amendment of former section as subsection (a), new subsection (b) and amendment of NOTE filed 11-20-2001; operative 12-20-2001 (Register 2001, No. 47).

§ 378. Officials to Be Admitted.

Any licensed boxing referee, judge, timekeeper or physician shall be admitted to any boxing show in this State on presentation of his or her license card. A ticket shall be issued to any referee when he or she shows his or her card but the commission shall not collect a tax on any ticket so issued.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18824, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of section heading and section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 379. Judge's License.

In order to be licensed as a judge for boxing contests, an applicant shall meet all the following:

(a) Shall have been assigned by the California Athletic Commission for at least three years in such a capacity as to have judged, supervised or evaluated professional boxing judges.

(b) Pass a written examination administered by the commission on the fundamentals of boxing, judging boxing contests and knowledge of California law and regulations relating to boxing.

(c) These requirements may be waived for any applicant who possesses a current and valid license as a boxing judge in another state or country and has not been the subject of any disciplinary action.

(d) Must have demonstrated prior experience in judging boxing contests and must demonstrate judging proficiency. Proficiency shall be determined by a commission representative or commission-appointed licensed referees or judges and the method of evaluations shall be approved by the commission.

NOTE: Authority Cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18648, Business and Professions Code.

HISTORY

1. New section filed 12–17–86, effective thirtieth day thereafter (Register 86, No. 51).
2. Amendment of subsections (a) and (d) filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

Article 10. Champions

§ 380. Definition.

A champion is one formally acknowledged supreme in a branch of athletics or game of skill, and ready to contend with any qualified challenger.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 381. Alternative Provisions.

Recognizing the need for uniformity of rules governing world championship contests notwithstanding any Boxing Rule the commission may, in its discretion, authorize alternate provisions from time to time as long as the safety and welfare of the boxers and the public are not jeopardized.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 382. Defense of Title.

Rules governing champions shall apply to state champions except that titles shall be defended at least once every six months if a suitable challenger is available and a challenge is made. If a boxer does not defend his title within this period of time or refuses to accept a reasonable offer to defend against a challenger, the title automatically shall be vacated.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 384. Determination of Title.

The commission may once a year name state professional boxing champions in each weight class. A championship may be lost by default,

forfeit, or inability to make the weight, but a championship can only be won in a contest.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 386. Advertising Appearance of Champion or Contender.

No person shall advertise a boxer in California as a champion or contender in any manner which is false or misleading.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

Article 11. Enforcement

§ 390. Violations of Laws or Rules.

Any licensee who violates the laws of the State of California, with the exception of minor traffic violations, or the rules of the Athletic Commission, or who fails or refuses to comply with a valid order of a commission representative, or who conducts himself or herself at any time or place in a manner which is deemed by the commission to reflect discredit to boxing, may have his or her license revoked, or may be fined, suspended or otherwise disciplined in such manner as the commission may direct.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18870 and 18878, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Change without regulatory effect amending section filed 12–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).

§ 391. Dealing with Certain Persons Prohibited.

The commission may deny an application, or suspend or revoke any license if it finds that at any time the licensee or any partner, officer, director, stockholder, or employee thereof, in this state or elsewhere,

(a) has engaged in illegal bookmaking or other illegal gambling activities,

(b) has been convicted of a crime substantially related to the regulations of boxing,

(c) who engages in illegal bookmaking or other illegal gambling activities,

(d) who is a reputed underworld character,

(e) who has been convicted of any such offense in any jurisdiction,

(f) who is under suspension or revocation in any other state, or

(g) is engaged in any activity or practices which are detrimental to the best interests of boxing.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18840, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 392. Dealing with Unlicensed or Suspended Persons Prohibited.

No licensee shall enter into any agreement under the jurisdiction of the commission with any unlicensed person, nor shall any licensee have any such dealings related to boxing with any person or club whose license is currently under suspension, or revoked, or whose application for a license has been denied.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18843 and 18870, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 394. Records.

Every club and manager shall maintain a full, true and accurate set of books and records in connection with all licensed activities. These records and any other records required by statute or commission rule shall be kept for at least five years and shall be open to inspection and audit by representatives of the commission upon reasonable notice.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18642, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 395. Financial Reports.

As a part of any investigation conducted by the commission concerning the regulation of boxing in California and for good cause shown, upon written request by the commission a licensee or applicant for a license shall submit a written financial statement to the commission made under penalty of perjury which shall include an itemization of all assets and liabilities of the licensee or applicant and such other financial information as the commission may request.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18611, 18640, 18641, 18665, 18666, 18667, 18826 and 18849, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 396. Financial Interest.

No club or any member, stockholder, director or officer thereof or matchmaker or assistant matchmaker shall act directly or indirectly as manager of a boxer.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18848 and 18849, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 397. Advances to Boxer or Manager.

Without prior written permission of the commission, no club shall, directly or indirectly, incur any indebtedness on behalf of a boxer or manager whereby such person is obligated to repay such indebtedness.

No club at any time shall, directly or indirectly, make any loan or advance to any manager.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18849, 18853 and 18854, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Change without regulatory effect amending section filed 12-16-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 50).

§ 398. Licensees Must Report Sham Contests.

Any person, licensed by the commission who is approached with a request or suggestion that a sham or collusive contest be entered into or that the contest shall not be conducted honestly and fairly shall immediately report the matter to the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18865, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 399. Procedure When License Denied or Revoked.

Any applicant who has been denied an application for a license may not file a similar application until one year from the date of the last previous denial by the commission. Any application filed within the one year period may be denied without the necessity of a hearing.

Anyone who has had his license revoked may not petition for reinstatement or apply for a new license until one year after the date of such revocation. Any petition for reinstatement filed within the one year period may be denied without the necessity of a hearing.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641, 18642, 18840 and 18841, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

Article 12. Pension Plan**§ 400. Professional Boxer's Pension Plan.**

The commission hereby restates the professional boxer's pension plan previously established by the commission. The commission may, in its discretion, contract with a private or public entity for the administration of such plan.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 401. Definitions.

(a) Account.

"Account" means either the participating boxer's regular account or refund account.

(1) Regular Account.

"Regular Account" means the account maintained by the commission on the records of the Plan for each participating boxer representing allocations of contributions and forfeitures, adjusted for withdrawals, income, expenses and realized and unrealized gains and losses attributable thereto.

Each boxer's regular account shall be created as of the effective date of this restated Plan on May 1, 1996. An amount equal to the actuarial equivalent, or the present value of accrued benefit ("PVAB") of a participating boxer's benefit under the Boxer's Retirement Plan as of April 30, 1996 shall be allocated to the boxer's regular account on that date. This amount in the boxer's regular account shall be referred to as the participating boxer's "grandfathered PVAB balance".

(2) Refund Account.

"Refund Account" means an account maintained by the commission on the records of the Plan for each boxer who has incurred a break in service and who has made contributions to the Plan under the terms of this Article. Such account shall be created as a sub-account within the Pension Fund and shall exist until January 1, 2002 in accordance with the vesting provisions of this Plan.

(b) Accrued Benefit.

"Accrued benefit" means the aggregate amount in all of a participating boxer's accounts and shall include the actuarial equivalent of any participating benefit under the Plan as of April 30, 1996.

(c) Actuarial Equivalent.

"Actuarial equivalent" means the equivalent in value of the accrued benefit expected to be received based upon actuarial assumptions adopted from time to time by an enrolled actuary appointed by the commission.

(d) Beneficiary.

"Beneficiary" means all persons entitled under the provisions of this Plan to receive benefits after the death of a participating boxer.

(e) Boxer.

"Boxer" means a licensed professional boxer.

(f) Boxers' Pension Account.

"Boxers' pension account" means the fund held by the commission in the boxers' pension account established pursuant to section 18882 of the Code for the exclusive purpose of paying benefits under this Plan.

(g) Break In Service.

"Break in service" occurs when a participating boxer fails to fight at least ten (10) scheduled rounds in California during any thirty-six (36) consecutive calendar months, after July 1, 1981, and prior to age 55. A participating boxer who suffers a break in service forfeits all credit earned for rounds fought up to that date unless such participating boxer is a covered boxer at the end of the plan year in which the break in service occurs. For purposes of this Article, a boxer's service in the armed forces of the United States in a time of war or national emergency shall not be counted in determining when a break in service occurs.

(h) Covered boxer.

"Covered boxer" means a participating boxer who has satisfied the vesting requirements of section 405(a).

(j) Forfeiture.

"Forfeiture" means the reallocation within the Plan of that portion of a participating boxer's regular account that is not vested prior to the date on which the boxer incurs a break in service.

(k) Participating Boxer.

"Participating Boxer" means a licensed professional boxer who participates in a contest after July 1, 1981, and who is or may become eligible

to receive a benefit under the Plan, or whose beneficiary may be eligible to receive any such benefit, and who has not incurred a break in service. A boxer who has incurred a break in service shall nonetheless be deemed a "participating boxer" for any year after that break in service in which the boxer participates in a contest.

(l) Plan Year.

"Plan year" means the calendar year. The first plan year for this restated Plan shall be the period between May 1 and December 31, 1996.

(m) Suspense Account.

"Suspense account" means the account provided for in the funding and allocation provisions of this Plan.

(n) Vested.

"Vested" means that the participating boxer or the participating boxer's beneficiary has an unconditional, nonforfeitable right in the participating boxer's accrued benefit.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Amendment of subsections (a)(1)-(a)(3) and (c) filed 7-11-94; operative 7-11-94 (Register 94, No. 28).
3. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).
4. Amendment of subsection (a), repealer of subsection (a)(2), subsection renumbering, and repealer of subsection (i) filed 6-17-97; operative 6-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
5. Amendment of subsection (a)(2) filed 12-4-98 as an emergency; operative 12-4-98 (Register 98, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-5-99 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (a)(2) and amendment of NOTE refiled 4-2-99 as an emergency; operative 4-2-99 (Register 99, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-99 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 4-2-99 emergency amendment by operation of Government Code section 11346.1(f) (Register 99, No. 42).
8. Amendment of subsection (a)(2) and amendment of NOTE filed 10-13-99; operative 10-13-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 42).
9. Amendment of subsection (k) filed 11-1-2001; operative 12-1-2001 (Register 2001, No. 44).

§ 402. Eligibility for Participation.

Any professional boxer who fights in a commission-approved contest shall be required to have contributions made to the Plan and shall participate in allocations of contributions and forfeitures in the Plan beginning with the first fight in which such requirements are met. The boxer shall sign a waiver of privacy rights to the extent necessary to enable the commission to locate the boxer in order to assure the boxer's receipt of benefits under the Plan. Any boxer who was participating in the Plan prior to May 1, 1996 shall continue to participate in the Plan and share in allocations to the boxer's accounts under the terms of this article.

(a) Effect Of Break In Service On Current Participation.

Any boxer who incurs a break in service prior to becoming a covered boxer shall cease to be a participating boxer in the Plan. If the participating boxer is a covered boxer pursuant to this Plan at the time he incurs a break in service, then such participating boxer's accounts shall be placed on inactive status, and the participating boxer shall not continue to share in the allocation of contributions but shall continue to receive allocations of the Plan's forfeitures and investment results.

(b) Determination of Eligibility.

The commission shall determine the eligibility of each boxer for participation in the Plan based upon information gathered for the commission by the commission staff. Each such determination shall be conclusive and binding on all persons. Any misrepresentation by a boxer, manager, promoter, or beneficiary shall be grounds for the denial, suspension or discontinuance of benefits, in whole or in part, or for the cancellation or recovery of benefit payments made in reliance thereon by the commission. Each participating boxer shall participate in the Plan until such time as the boxer incurs a break in service or begins receiving all or a portion of his accrued benefit from the Plan.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 403. Funding and Contributions.

(a) Contributions.

Contributions shall be assessed as follows:

The shall contribute 88 cents (\$.88) on every ticket, excluding a working complimentary ticket as described in section 264, up to a maximum contribution of \$4,600 per show.

(b) Formula for Allocation of Contributions.

Contributions shall be allocated to each participating boxer's account on the last day of the plan year in the following proportions:

(1) One half (1/2) of the contributions for the plan year shall be allocated among the regular accounts of participating boxers who have not incurred a break in service as of the last day of the plan year in the proportion that each such boxer's scheduled rounds fought for the plan year bears to the total scheduled rounds fought in the plan year; and

(2) One half (1/2) of the contributions for the plan year shall be allocated among the regular accounts of participating boxers who have not incurred a break in service as of the last day of the plan year in the proportion that each such boxer's total purses for the plan year bears to the total purses paid for all fights fought by participating boxers in the plan year.

(c) Formula for Allocation of Forfeitures.

Forfeitures which become available in a plan year for allocation shall be allocated to each participating boxer's account on the last day of the plan year in the following proportions:

(1) One half (1/2) of the forfeitures shall be allocated among all regular accounts as of the last day of the plan year in the proportion that each such regular account bears to the total regular accounts in the Plan; and

(2) One half (1/2) of the forfeitures shall be added to the boxer, promoter and manager contributions for the plan year and shall be allocated among the regular accounts of participating boxers who have fought in the current plan year according to the formula set forth in subsection (b) above.

(d) Forfeiture and Reallocation of Unvested Amounts.

If any participating boxer incurs a break in service prior to becoming a covered boxer, then such participating boxer's regular account shall be held in a suspense account on the records of the Plan after incurring such break in service until such time as it shall be forfeited and reallocated.

Suspense account balances shall be forfeited and reallocated under the Formula set forth in subsection (c) above, as of the last day of the plan year following the plan year in which the participating boxer completes a break in service.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).
3. Amendment of subsection (a) and repealer of subsections (a)(1)-(a)(3) and (e)-(e)(4) filed 6-17-97; operative 6-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
4. Amendment of subsection (a) and amendment of NOTE filed 7-23-99 as an emergency; operative 7-23-99 (Register 99, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-23-99 order, including further amendment of subsection (a), transmitted to OAL 8-30-99 and filed 10-13-99 (Register 99, No. 42).
6. Amendment of subsection (c)(2) filed 11-1-2001; operative 12-1-2001 (Register 2001, No. 44).

§ 404. Valuation and Earnings.

(a) Valuation Of The Pension Fund.

The assets of the pension fund shall be valued annually at fair market value on the last day of the plan year. The commission shall determine the net worth of the assets of the pension fund at their fair market value on the last day of the plan year.

(b) Order of Adjustment.

Subject to the provisions governing allocations of contributions and valuation, the commission shall adjust the accounts as of the last day of the plan year as follows, in the order stated:

(1) First, the accounts shall reflect proportionately any adjustment of fair market value of assets in the manner provided in subsection (c) below;

(2) Second, the commission shall allocate proportionately any income or loss in the manner provided in subsection (c) below;

(3) Third, the commission shall deduct all fees and expenses for the administration of the Plan;

(4) Fourth, the commission shall allocate contributions in the manner provided in section 403(b);

(5) Fifth, the commission shall allocate forfeitures in the manner provided in section 403(b).

(c) Allocation Of Investment Results.

As of the last day of each plan year, the income or loss attributable to the assets of the pension fund, reduced by expenses incurred since the last day of the prior plan year, shall be allocated to the accounts of the participating boxers who had unpaid balances in their accounts as of such date in proportion to the balances in such accounts as of the last day of the prior plan year, after reducing such prior plan year balances by amounts withdrawn or distributed since last day of the prior plan year, if any.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).
3. Amendment of subsection (b)(5) and repealer of subsection (b)(6) filed 6-17-97; operative 6-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).

§ 405. Vesting.

(a) Vesting.

A participating boxer shall become vested in the amount credited to the participating boxer's regular account when the participating boxer has:

(1) Fought in at least ten (10) scheduled rounds per calendar year during each of four (4) calendar years without an intervening break in service; and

(2) Has fought in at least seventy-five (75) scheduled rounds without a break in service.

(b) Scheduled Rounds for Vesting.

A participating boxer shall be credited for fighting in one (1) round for each scheduled round of professional boxing fought in California in a commission-approved bout as part of a contest in which at least one (1) round was commenced after June 30, 1978; provided however, that the boxer must fight in at least twenty (20) scheduled rounds in the thirty-six (36) calendar month period following July 1, 1981, in order to receive any credit for scheduled rounds fought beginning after June 30, 1978 but prior to July 1, 1981.

(c) Refund of Unvested Pre-1996 Boxer Contributions.

A separate refund account shall be created on the records of the Plan as of May 1, 1996, which shall contain all unvested boxer contributions made prior to May 1, 1996, for all boxers who have incurred a break in service as of April 30, 1996 under the terms of the Plan as it existed prior to such date. The commission will continue to invest and safeguard those assets within the investment vehicle in which it is investing the participating boxers and covered boxers accounts.

On or after May 1, 1996 a participating boxer who has not vested but who has contributed a portion of his purse (under the provisions of this Plan in this article in effect prior to May 1, 1996), and who has incurred a break in service may request a refund from the commission of the pre-1996 amounts contributed by him, plus 6% interest up to May 1, 1996 and plus his share of applicable earnings allocated to his account since that date. No boxer who has vested and become a covered boxer is eligible for such a refund. All amounts not claimed by these boxers before

January 1, 2000, shall constitute forfeitures and shall be allocated in accordance with section 403(c), in three (3) equal installments for the plan years ending December 31, 1999, December 31, 2000, and December 31, 2001.

(d) Lost Beneficiary.

If, according to the records of the commission, a participating boxer has reached age 55 and the participating boxer or his or her beneficiary has not made a claim for benefits, the participating boxer's accrued benefit shall be held until the last day of the third plan year after the participating boxer reached age 55, at which time it shall be reallocated pursuant to section 403(c); provided, however, that if a claim is later made by the participating boxer or beneficiary for the forfeited benefit, the commission shall reinstate the amount of the vested account balance that had been forfeited, unadjusted by any gains or losses attributable to such amount. Such reinstatement shall be made from the contributions for such year of reinstatement, prior to the allocation of contributions to accounts for the year of reinstatement.

(e) Vesting of Pre-1996 Regular Account Balance.

Each participating boxer who is not a covered boxer as of May 1, 1996 shall continue to accrue credit towards vesting in his regular account balance under the terms of this Plan. In the event a participating boxer with a regular account balance attributable to pre-1996 contributions incurs a break in service before becoming a covered boxer, the portion of such boxer's regular account balance attributable to amounts other than boxer contributions, if any, shall be placed in the suspense account and shall be reallocated with other forfeitures under the terms of this restated Plan.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).
2. Amendment of subsection (c) filed 12-4-98 as an emergency; operative 12-4-98 (Register 98, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-5-99 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (c) refiled 4-2-99 as an emergency; operative 4-2-99 (Register 99, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-99 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 4-2-99 emergency amendment by operation of Government Code section 11346.1(f) (Register 99, No. 42).
5. Amendment of subsection (c) filed 10-13-99; operative 10-13-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 42).

§ 406. Determination of Benefits.

(a) Measure Of Benefits.

The benefit distributable to a covered boxer upon retirement or to the covered boxer's beneficiary in the event of the covered boxer's death, shall be the value of the participating boxer's accrued benefit as of the last day of the plan year coinciding with or next following the date of death or attainment of age 55.

(b) Nonliability.

The commission does not guarantee the pension fund, the participating boxers or their beneficiaries against loss of or depreciation in value of any right or benefit that any of them may acquire under the terms of this Plan. All of the benefits payable hereunder shall be paid or provided for solely from the pension fund.

(c) Methods of Payment.

The commission, with respect to any benefit, is authorized:

(1) To pay benefits directly from the pension fund in a lump sum or installments;

(2) To invest the amount of the accrued benefit in an installment contract or annuity for the benefit of the covered boxer or the participating boxer's beneficiary by conversion of existing contracts or otherwise. Such installment contract, endorsed as nontransferable, may be distributed to the covered boxer or the covered boxer's beneficiary;

(3) To distribute to the covered boxer the contracts on the covered boxer's life; in such event, if the vested interest of the covered boxer is less than the value of contracts to be distributed, then the commission may reduce their net value to the amount of the vested interest by making a

policy loan or allowing the participating boxer to purchase the excess contract value; or

(4) Any combination of the preceding methods.

(d) Payment Of Benefits.

(1) When a covered boxer either reaches age 55 or dies, the commission shall determine the boxer's accrued benefit on the last day of the plan year (or a valuation date as of the date the participating boxer became entitled to benefits hereunder, if the commission orders a special valuation to be made or if the accounts are segregated individual accounts). The covered boxer shall be provided with a nontransferable, fixed or variable installment contract of such type and from such insurer as the trustee shall select, payable over a period of years not to exceed the greater of thirty (30) years, the covered boxer's life expectancy, or the joint life expectancy of the covered boxer and the covered boxer's designated beneficiary. The payments shall be substantially equal in amount and shall occur at least annually.

(2) A covered boxer may, for good cause shown, petition the commission in writing to receive one of the following alternative methods of payment:

(A) Lump Sum.

A single lump sum distribution of the covered boxer's accrued benefit in cash or in-kind.

(B) Installments.

Cash payments in quarterly installments of substantially equal designated amounts or of a designated percentage of the value of the covered boxer's accrued benefit payable over a five year term, which shall not exceed the covered boxer's remaining life expectancy or over the joint life expectancy of the covered boxer and the covered boxer's designated beneficiary.

(3) For purposes of subsection (d), "good cause" means the covered boxer's terminal illness or disability retirement, or the situation where it is objectively imprudent to purchase an annuity contract.

(e) Commencement Of Payment Of Benefits.

Distribution of the funds due to a covered boxer shall be made to such covered boxer as soon as is administratively feasible after the last day of the plan year in which the covered boxer reaches age 55 or dies or meets other applicable early retirement distribution criteria and without unreasonable delay unless due to causes beyond the control of the commission, its trustee or other appointed fiduciary.

(f) Vocational Early Retirement Benefit.

A covered boxer may ask the commission to convert all or a portion of the covered boxer's accrued benefit to a vocational education benefit. This request shall be made by the covered boxer on or after the covered boxer has reached the age of 36 and has retired from boxing, as evidenced by unconditional surrender or cancellation of the boxer's license. The commission may, in its discretion, grant such petition in whole or in part.

If the commission grants the petition, it may pay all or a portion of the covered boxer's accrued benefit for education or vocational training. The commission shall make such payments directly to an institution approved by the Bureau for Private Postsecondary and Vocational Education, or its equivalent in another state or jurisdiction, on a periodic basis as billed by the institution and where the institution submits evidence satisfactory to the commission that the boxer is maintaining satisfactory attendance at the institution.

(g) Amount of Death Benefits.

Upon the death of a covered boxer prior to age 55, the covered boxer's accounts shall become payable to the covered boxer's beneficiary.

(h) Designation Of Beneficiary.

Each participating boxer shall have the right to designate, on forms provided by the commission, a beneficiary or beneficiaries to receive the participating boxer's death benefits, and shall have the right, at any time, to revoke such designation or to substitute another such beneficiary or beneficiaries without the consent of any beneficiary; provided, however, that a married participating boxer and spouse must both designate any non-spouse beneficiary or beneficiaries. The commission shall file all

beneficiary designations with the trustee and with the insurer insofar as they affect any insurance contracts on the participating boxer's life.

(i) Absence Of Valid Designation Of Beneficiaries.

If, upon the death of a covered boxer or beneficiary, there is no valid designation of beneficiary on file, the commission shall designate the covered boxer's survivors and issue as the beneficiary, in order of priority according to the California Probate Code.

The determination of the commission as to which persons, if any, qualify within the aforementioned categories shall be final and conclusive upon all persons. The commission may seek a declaratory judgment of a court of local jurisdiction to determine the identity of beneficiaries and their respective shares at the expense of the beneficiary's accounts.

(j) Distributions To Incapacitated Covered Boxers.

If a covered boxer or beneficiary who is entitled to a payment under the Plan is deemed incapable of personally receiving the payment, the commission or its trustee may make all benefit distributions to the persons or institutions which are providing for the care and maintenance of the covered boxer or beneficiary and continue to make distributions to them until a duly appointed legal representative of the covered boxer or beneficiary makes a claim for the payment. Payments made pursuant to the terms of this subsection shall constitute a distribution to the covered boxer or beneficiary entitled thereto, and shall immediately discharge the commission, the Plan and the pension fund of any further liability therefor.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).
3. Change without regulatory effect amending subsection (f) filed 7-21-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 30).

§ 407. Benefit Claims and Appeals.

(a) Request for Information.

Any participating boxer or beneficiary may request information from the commission concerning rights or benefits under this article. The executive officer or his designee shall respond, in writing, not to exceed thirty (30) days, unless the failure to respond results from matters reasonably beyond the Administrator's control.

(b) Claim For Benefits.

The commission shall inform a claimant in writing within 30 days after receiving a claim whether the claim is complete and includes all information and documents necessary to establish the claim. The commission shall provide a written decision within 60 days after receipt of a complete claim. A written decision on each claim for benefits shall be provided to the person making the claim. If the claim is denied in any respect, the decision shall set forth the specific reasons for such denial, written in plain English, including:

(1) Specific references to pertinent Plan provisions on which the denial is based;

(2) An explanation of the Plan's review procedure for denied claims.

(c) Review Of Denied Claim.

Within ninety (90) days after receipt of decision denying a claim for benefits, the covered boxer or beneficiary making the claim or his/her authorized representative may file a written request for review. The commission shall notify the claimant that it has received the request for review and that the claimant may submit, within thirty (30) days from the date of the notification, a written statement and documents to give whatever facts or evidence the claimant feels bears upon the claim, review pertinent documents and records and submit issues and comments in writing. The commission shall make a full review of the record, including the written and oral information submitted by the claimant. Within thirty (30) days of the claimant's deadline to provide information, the commission shall render a decision and if the claim is again denied, the commission shall set forth the specific reasons for such denial written in plain English.

glish. Such decision shall contain the same information required by subsection (b), above.

(d) Time.

The filing of a claim or receipt of a notice of decision and any event starting a time period shall be deemed to commence with personal delivery signed for by the claimant or by affidavit of personal service, or the date of actual receipt for certified or registered mail (or date returned if delivery is refused or a claimant has moved without giving the commission, or its agents a forwarding address).

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 408. Plan Administration.

(a) Expenses.

The members of the commission shall receive no compensation from the boxer's pension account for administering the pension plan, but the boxers' pension account shall reimburse the commission for all necessary direct expenses incurred in carrying out its maintenance of the Plan. The commission shall pay any necessary direct expenses, including reasonable pension consulting fees incurred by it in administering the Plan out of the Plan's funds. All direct administrative expenses, including actuarial certification fees, trust accounting fees, and commissions and expenses related to the investment of the boxer's Pension Account shall be directly assessable and shall be paid out of the boxer's pension accounts.

Expenses related to the restatement and implementation of this Article, including any extraordinary actuarial, design and consulting fees, costs of locating lost boxers' beneficiaries and costs of preparing summary plan descriptions in English and Spanish shall be reimbursed to the commission from the Plan, but only out of and limited to the funds that the commission's enrolled actuary certifies exceeds the cumulative grandfathered PVAB balances (actuarial equivalent of the Plan's benefit and refund obligations) as April 30, 1996.

(b) Powers and Duties.

The primary responsibility of the commission under this article is to administer the Plan for the exclusive benefit of the boxers and their beneficiaries, subject to the specific terms of this article. The commission shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of this article and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the commission shall be conclusive and binding upon all persons. The commission shall have all powers necessary or appropriate to accomplish the duties under this Plan.

The commission shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (1) The discretion to determine questions relating to the eligibility of boxers to participate or remain a participating boxer or a covered boxer hereunder and to receive benefits under the Plan;
- (2) To compute, certify, and direct the amount and the kind of benefits to which any covered boxer shall be entitled hereunder;
- (3) To maintain all necessary records for the administration of the Plan;
- (4) To interpret the provisions of the Plan consistent with the law and these rules;
- (5) To determine the size and type of any contract to be purchased from any insurer, if any, and to designate the insurer from which such contract shall be purchased;
- (6) To prepare and distribute to participating boxers information concerning their rights and obligations, including a summary plan description stating the requirements and benefits of the Plan in English and Spanish, using commonly spoken language to the extent possible, which shall be sent to each manager and to each boxer at appropriate times by

the Pension Plan Committee or the commission staff, including at the time of initial licensure and renewal.

(7) To place the funds in the pension plan in trust and to select a trustee to invest and administer the funds.

(c) Annual Pension Report.

The executive officer shall present an annual pension report draft to the commission, which shall review it and issue a final annual pension report. The final annual pension report shall be a public document and shall include:

- (1) The financial condition of the pension fund, including present value, net income or losses by source over the previous twelve (12) months, gains or losses realized by sales of assets or disposition;
- (2) Number of currently covered boxers;
- (3) The number of covered boxers drawing benefits and the total amount expended by category of benefits (i.e., normal retirement, death, annuity conversion, or vocational early retirement);
- (4) The number of applicants denied requested benefits and the numbers and dispositions of requests for reconsideration and commission appeals;
- (5) Itemized administrative or other deductions from the pension fund; and
- (6) Other information that the commission deems appropriate.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 409. Transfer Or Assignment of Benefits.

Subject to the exceptions provided below and as otherwise specifically permitted by law, neither the assets or benefits under this Plan nor the pension fund shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge. Any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void. Nor shall any such benefits in any manner be liable for or subject to the debts, contracts, liabilities or torts of the person entitled to such benefits.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer and new section heading, section and NOTE filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 410. Time for Filing Claim.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 412. Amendment of Plan

NOTE: Authority cited: Sections 18611 and 18882, Business and Professions Code. Reference: Sections 18881 and 18882, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 413. Actuarial Reevaluation.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer filed 4-26-96; operative 5-1-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 415. Limitation of Liability.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).

2. Repealer filed 4–26–96; operative 5–1–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

§ 416. Termination of Plan.

NOTE: Authority cited: Sections 18611 and 18881, Business and Professions Code. Reference: Section 18881, Business and Professions Code.

HISTORY

1. Change without regulatory effect of NOTE (Register 87, No. 5).
2. Repealer filed 4–26–96; operative 5–1–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 17).

Article 13. Training Gymnasiums

§ 495. Gymnasium License.

All professional boxers' training gymnasiums licensed by the commission shall post the license in a conspicuous place.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18653, Business and Professions Code.

HISTORY

1. New article 13 and section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

§ 496. Monthly Sparring Report.

To assure accuracy and accountability, owners of licensed professional boxing gymnasiums shall submit to the commission, on a monthly basis, the following information on licensed boxers or holders of sparring permits who have been knocked-out or injured at the gymnasium: the name and license number of each boxer, trainer and sparring partner, the nature of any injuries to the boxer or sparring partner, and whether headgear was used.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18643 and 18654, Business and Professions Code.

HISTORY

1. New section filed 10–30–95; operative 10–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).

Chapter 2. Full Contact Martial Arts and Kickboxing

Article 1. General Provisions

§ 500. Citation.

The rules in this subchapter shall be cited and referred to as the "Professional Full-Contact Martial Arts and Kickboxing Rules."

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18763 and 18765, Business and Professions Code.

HISTORY

1. New subchapter 1.5 (sections 500–532, not consecutive) filed 8–23–77; effective thirtieth day thereafter (Register 77, No. 35).
2. Repealer and new section filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
3. Change without regulatory effect of NOTE (Register 87, No. 5).
4. Amendment filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
5. Amendment of NOTE filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 501. Applicability of Rules; Definitions.

The rules in this subchapter shall apply to all professional full contact martial arts and kickboxing contests or matches. For purposes of this chapter, the term "kickboxing" has the meaning given in Section 18627(b) of the code and the term "martial arts" means unarmed full-contact martial arts, other than kickboxing, which permit the use of a mix of techniques from different disciplines, including but not limited to the use of chokeholds, joint manipulation and grappling techniques.

NOTE: Authority Cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18627, 18761 and 18768, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment filed 9–14–94; operative 10–14–94 (Register 94, No. 37).

4. Amendment of section heading and section filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 502. Certain Boxing Rules Not Applicable.

(a) Unless otherwise specified in this chapter, all of the professional boxing rules apply to martial arts contests or matches except the following: Sections 242, 298, 306, 309 through 313, 322, 337, 338, 339, 349 through 351, 357, and 400 through 416.

(b) Unless otherwise specified in this chapter, all of the professional boxing rules apply to kickboxing contests or matches except the following: Sections 242, 298, 306, 309 through 313, 322, 337, 338, 339, 357, and 400 through 416.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18627, 18761, 18763, 18765, 18766, 18767 and 18768, Business and Professions Code.

HISTORY

1. New section filed 1–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section and NOTE filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
4. Amendment filed 2–29–2000; operative 3–30–2000 (Register 2000, No. 9).
5. Amendment filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 503. Tournament or Elimination Format Contests — Selection of Opponents.

In any tournament or elimination format contest, the commission shall determine the initial opponents in the first round of the tournament by drawing names at the weigh-in.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

Article 2. Safety Standards

§ 510. Weights and Classes.

MALES

Flyweight	through 125 lbs.
Bantamweight	125.1–135 lbs.
Featherweight	135.1–145 lbs.
Lightweight	145.1–155 lbs.
Welterweight	155.1–170 lbs.
Middleweight	170.1–185 lbs.
Light Heavyweight	185.1–205 lbs.
Heavyweight	205.1–265 lbs.
Super Heavyweight	265.1 lbs. and over

FEMALES

Lightweight	through 125 lbs.
Middleweight	125.1–135 lbs.
Light-Heavyweight	135.1–150 lbs.
Heavyweight	150.1–175 lbs.
Super Heavyweight	175.1 lbs. and over

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. Renumbering of former article 2 (sections 520–532, not consecutive) to article 3 (sections 520–531, not consecutive), renumbering of former section 505 to section 510 and redesignation of former sections 505–507 to new article 2 (sections 510–513, not consecutive) filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
4. Amendment filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 512. Rounds; Number; Length; Rest Period.

(a) Non-title kickboxing bouts shall not exceed 10 rounds, each round not to exceed 3 minutes, with a rest period of not less than one minute nor more than 2 minutes, as specified by the sanctioning body. Except with the approval of the commission, pursuant to Section 18748 of the code, title bouts shall not exceed the maximum length or number of rounds specified in this subsection and in no event shall the rest period between rounds be less than one minute.

(b) Non-title martial arts bouts other than kickboxing shall not exceed 5 rounds, each round not to exceed 5 minutes, with a rest period of not

less than one minute nor more than 2 minutes, as specified by the sanctioning body. Except with the approval of the commission, pursuant to Section 18748 of the code, title bouts shall not exceed the maximum length or number of rounds specified in this subsection and in no event shall the rest period between rounds be less than one minute.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. Renumbering of former section 506 to section 512 and new NOTE filed 10-2-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment filed 9-14-94; operative 10-14-94 (Register 94, No. 37).
4. Repealer and new section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 513. Fighter's Equipment.

(a) The ring costume for each fighter on a program shall be approved by the commission and shall include two pairs of trunks and a custom-made individually fitted mouthpiece. Commission staff shall not approve ring costumes that are so similar as to possibly cause confusion as to the identity of the contenders.

(b) A fighter who is participating in a kickboxing contest may, at his or her option, use padded footgear and/or shin protectors. Shoes may not be worn either in martial arts contests or in kickboxing contests.

(c) In addition to the items described in subsection (a), the costume for each male fighter shall include a foul-proof groin protector.

(d) In addition to the items described in subsection (a), the costume for each female fighter shall include a body shirt.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 507 to section 513 filed 10-2-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of newly designated subsection (a) and new subsection (b) filed 9-14-94; operative 10-14-94 (Register 94, No. 37).
4. Amendment of section heading and repealer and new section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 514. Gloves.

(a) Fighters in kickboxing contests in all weights up to and including heavyweight class shall wear no less than eight-ounce gloves. In heavier classes, fighters shall wear no less than ten-ounce gloves. When two contestants differ in weight classes, the contestants shall wear the gloves required for the higher weight classification.

(b) A fighter in a martial arts contest shall wear gloves that have no padding in the palm or fingertip area and that are appropriate in weight for the fighter's hand size.

(c) All gloves must be approved by the commission.

(d) No gloves shall be required for those martial arts disciplines that prohibit striking or punching.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 9-14-94; operative 10-14-94 (Register 94, No. 37).
2. Amendment filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

Article 3. Conduct of Matches, Contests and Exhibitions

§ 515. Time Between Bouts.

Unless written approval is obtained from the commission, a fighter who has competed in a bout or tournament format event anywhere in the world shall not be allowed to compete in this state until seven days have elapsed from the date of that bout or event. This limitation shall not be construed to prohibit a fighter from competing in a tournament format event that requires the fighter to rest a minimum of 30 minutes between

bouts. In a tournament format event, a fighter shall be examined by a physician before each bout.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Section 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 516. Method of Scoring When There Is an Injury Not Resulting from a Foul.

If the referee determines that the injured fighter was responsible for his own injury, the referee will not penalize his opponent in any manner. In this case, if the referee or ring physician determines that the injured fighter is unable to continue, he will lose by "technical knockout".

If the referee determines that no fault was attributable to either fighter, the referee shall allow the injured fighter 5 minutes to recover. If, at the end of the recovery period, the referee or the ringside physician determines that the injured fighter cannot continue, the bout will be decided on the score cards if a majority of the rounds have been completed (including the round in which the injury occurred) or, if a majority of the rounds have not been completed, the bout will be called a technical draw.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 517. Intentional Fouling.

(a) In the case of an intentional foul, the referee may interrupt the bout for the purpose of allowing the injured fighter time to recover. A maximum of five (5) minutes of recovery time will be permitted.

(b) If the injured fighter is thereafter unable to continue, the offending fighter shall be disqualified, his or her purse may be withheld, and he or she may be subject to suspension. Disposition of the purse and the penalty to be imposed upon the fighter shall be determined by action of the commission or the commission's representative.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640, 18707 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 518. Unintentional Fouling.

(a) When a bout is interrupted due to an injury caused by an unintentional foul, the referee, in consultation with the ringside physician, shall determine whether the fighter who has been fouled can continue or not. If the referee sees, or if after consultation with the judges, determines that a fighter is unintentionally fouled and if the fighter's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the bout continued after a reasonable interval, not to exceed 5 minutes.

(b) If the referee and/or the ringside physician determines that the bout may not continue because of an injury suffered as the result of an unintentional foul or because of an injury inflicted by an unintentional foul which later becomes aggravated by fair blows, the bout shall be declared a draw, if according to the score cards, the bout was determined to be a draw at the time the foul occurred. If, according to the score cards, the fighter committing the foul was winning prior to the foul, the bout shall be declared a technical draw. If, according to the score cards, the fighter being fouled was winning prior to the foul, then that fighter shall be declared the winner.

(c) When an unintentional foul causes the bout to be interrupted for the purpose of allowing the injured fighter time to recover, the referee shall penalize the fighter guilty of the foul one or more points.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 519. Suspected Fouls.

If an injury occurs due to a suspected foul that the referee was unable to see, the referee may, in his sole discretion, confer with the judges to

determine where the foul may be placed. He may consider any, all or none of the opinions expressed in making his determination. The referee may, in his sole discretion, ask for a replay, if television equipment is available, of the technique in question before rendering his decision.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 520. Method of Judging.

Referees and judges shall score all contests and determine the winner through the use of the ten–point must system. In this system, the winner of each round receives ten points and the opponent a proportionately less number. If the round is even, each fighter receives ten points. No fraction of points may be given.

At the termination of the contest or the termination of each round, as determined by the commission's representative present at the event, the cards of the judges shall be picked up by the referee and delivered to the commission representative assigned to check the totals. The majority opinion shall be conclusive and if there is no majority then the decision shall be a draw. When the commission representative has completed verifying the score, the ring announcer shall be informed of the decision and shall announce the decision.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640, 18761 and 18763, Business and Professions Code.

HISTORY

1. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
2. Renumbering and amendment of former article 2 heading to article 3 and amendment of section 520 filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
3. Change without regulatory effect of NOTE (Register 87, No. 5).
4. Repealer of section text, adoption of new section text and amendment of NOTE filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
5. Repealer of first paragraph filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 521. Minimum Kicking Requirement.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18627 and 18640, Business and Professions Code.

HISTORY

1. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
3. Change without regulatory effect of NOTE (Register 87, No. 5).
4. Repealer and new section filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
5. Repealer filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 522. Fouls.

(a) Fouls in kickboxing and martial arts. The following tactics are fouls in both kickboxing and martial arts and are forbidden. Use of these tactics shall result in a warning and loss of points as determined by the referee.

- (1) Headbutts.
- (2) Striking downward using point of the elbow.
- (3) Openhand attacks to the eyes or throat or eye gouging.
- (4) Striking at that part of the body over the kidney or spine or chopping or striking the back of the neck or head.
- (5) Spitting, or, in the referee's discretion, slapping.
- (6) The use of abusive language in the ring.
- (7) Any unsportsmanlike trick or action that causes any injury to an opponent or referee.
- (8) Attacking on the break.
- (9) Attacking after the bell or gong has sounded ending the round, or when the opponent is out of the ring.
- (10) Intentionally pushing, shoving or wrestling an opponent out of the ring with any part of the body.
- (11) Linear kicks to the front or side of the knees.
- (12) Continuous dropping of mouthpiece.

(13) Intentional evasion of contact.

(14) Hair pulling.

(15) Attacking or obstructing the trachea.

(16) Clawing, pinching or twisting the flesh or grabbing the clavicle.

(17) Pulling or holding uniform below hipline.

(18) Holding ropes or fence.

(19) Small joint manipulation (e.g. twisting of fingers or toes).

(20) Groin attacks.

(21) Fish hooks.

(22) Biting.

(b) Fouls in kickboxing. The following tactics are fouls in kickboxing and are forbidden. Use of these tactics shall result in a warning and loss of points as determined by the referee.

(1) Arm bars.

(2) Grabbing or holding onto an opponent's leg or foot, and grabbing or holding onto any other part of the body.

(3) Punching or kicking a contestant when he or she is down. A contestant is down when any part of his or her body, other than his or her feet, touch the floor. His or her opponent may continue to attack until the contestant has touched the floor with any part of the body other than the feet.

(4) Leg Checking. (Extending the leg to check an opponent's leg or to prevent him from kicking.).

(5) Purposely going down without being hit.

(6) Any use of throws or any takedowns.

(7) Holding and hitting.

(8) Hitting or slapping with an open glove.

(9) Palm heel strikes to the front of the face (using the heel of the palm of the hand to deliver a blow to the face).

(c) Fouls in martial arts (non–kickboxing). In any martial arts contest other than kickboxing, the following tactics are fouls and are forbidden. Use of these tactics shall result in a warning and loss of points as determined by the referee.

(1) Kicking the head of a contestant when he or she is down.

(2) Spiking (purposely driving an opponent straight to the ring floor on his head or neck from an upright and vertical position).

(3) Using knees to the head of an opponent who is not standing.

(4) Putting a finger into any orifice or into any cut or laceration of an opponent.

(5) Stomping an opponent when the opponent is down.

(d) In addition to or in lieu of losing points, any contestant guilty of any of the foul tactics listed in this section that are applicable to the contestant's sport may be disqualified, his or her purse may be withheld from payment, and the contestant may be suspended. Disposition of the purse and the penalty to be imposed upon the contestant shall be determined by action of the commission.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640, 18765 and 18768, Business and Professions Code.

HISTORY

1. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment filed 10–2–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
3. Change without regulatory effect of NOTE (Register 87, No. 5).
4. Amendment of subsections (a)(4), (a)(6) and (a)(10), repealer of subsection (a)(14) and subsection renumbering, amendment of newly designated subsections (a)(14), (a)(16) and (a)(20), new subsections (a)(15), (a)(21), (a)(22) and (b)(1)–(b)(5) and subsection relettering, and amendment of newly designated subsection (c) filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
5. Amendment filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

§ 523. Ring.

(a) For kickboxing contests, the ring or fighting area shall meet the requirements of Rules 310 through 312, inclusive. For all other types of martial arts bouts, the ring or fighting area shall meet the requirements set forth below in this section.

(b) The ring or fighting area shall be no smaller than 20' by 20' and no larger than 32' by 32'. A ring enclosed by ropes shall be square. The ring floor or floor of the fighting area enclosed by ropes shall extend at

least 20 inches beyond the ropes. The ring floor or floor of the fighting area shall be padded in a manner approved by the commission, consistent with the requirements of section 18724 of the code. Padding shall extend beyond the ring or fighting area and over the edge of the platform. The ring or fighting area shall have a canvas covering or similar material, tightly stretched and laced to the ring platform. Vinyl or other plastic rubberized covering will not be permitted. There shall not be any obstruction or object, including but not limited to a triangular border, on any part of the ring floor.

(c) The ring platform shall not be more than four feet above the floor of the building. A ring enclosed by ropes shall have three sets of suitable steps or ramps, one for use by each of the fighters and one for use by the officials. A ring enclosed by a fence shall have two sets of suitable steps or ramps for use by the fighters and the officials. Ringside tables shall be no higher than ring platform level. Ring posts for a ring enclosed by ropes shall be of metal, not less than 3" nor more than 6" in diameter, extending from the floor of the building to a maximum height of 6" above the highest horizontal rope above the ring floor. Ring posts for a ring enclosed by ropes shall be separated from the ring ropes by at least 18 inches. The posts for a ring enclosed by a fence shall extend from the floor to the top of the fighting area and shall be no less than 66" and no more than 78" above the floor of the fighting area. All posts shall be properly padded in a manner approved by the commission.

(d) The ring shall be enclosed by either of the following:

(1) A fence made of such material as will not allow a fighter to fall out or break through it on to the floor or spectators, including but not limited to vinyl-coated chain link. However, the enclosure shall not obstruct or limit the supervision and regulation of the bout by the officials or commission representatives. All metal parts shall be covered and padded in a manner approved by the commission and shall not be abrasive to the fighters.

(2) Five horizontal ropes not less than 1 inch in diameter and wrapped in soft material. The lowest rope to be not less than 5 inches nor more than 8 inches above the floor. The second rope to be not less than 8 inches nor more than 12 inches above the lowest rope. The top three ropes to be spaced equal distance apart and not less than 12 inches nor more than 14 inches from each other. The lowest rope shall have applied around it a padding of a thickness of not less than 1/2 inch. The horizontal ropes shall be tied together by vertical ropes not less than 1/4 inch in diameter. If a ring is less than 24' by 24', there shall be two (2) vertical ropes, spaced equal distance apart, on each side of the ring. If a ring is 24' by 24' or greater, there shall be three (3) vertical ropes, spaced equal distance apart, on each side of the ring. The lowest portion of each vertical rope, between the lowest horizontal rope and second rope, shall have applied around them a padding of a thickness of not less than 1/4 inch.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18724 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48). For prior history, see Register 80, No. 15.
2. Amendment filed 1-17-2007; operative 1-17-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 3).

§ 524. Sanitation.

The promoter of the event is responsible for ensuring that acceptable sanitary standards are met with respect to dressing rooms, water bottles, towels or other equipment. Physicians and commission representatives shall specifically check at every event for violations of these rules. The ring shall be swept, dry-mopped, or otherwise adequately cleaned before the event and prior to each fight.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18724 and 18765, Business and Professions Code.

HISTORY

1. New section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48). For prior history, see Register 84, No. 40.

§ 525. Procedure Where Failure to Compete.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 526. Failure to Resume Contest.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 527. Wiping Gloves.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 528. Method of Counting over a Contestant Who Is Down.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 529. Resuming Count.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 530. Communication of Counting for Knockdowns — Kickboxing.

As soon as a fighter in a kickboxing contest has been knocked down, the official timekeeper shall begin calling the count (from 1 to 10) while the referee directs the opponent to a neutral corner. After the referee has directed the opponent to a neutral corner, he shall return to the fallen fighter and shall count over him, picking up the count from the timekeeper.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. Amendment filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section heading and section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 531. Standing Eight-Count — Kickboxing.

The referee may, at his discretion, administer an eight-count to a contestant in a kickboxing contest who is in trouble but who is still standing. He shall direct the opponent to a neutral corner, then begin counting from 1 to 8, examining the contestant in trouble as he counts. If, after completing the standing eight-count, the referee determines that the contestant is not able to continue, he shall stop the contest and declare the opponent the winner by technical knockout.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. Amendment filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).
2. Change without regulatory effect of NOTE (Register 87, No. 5).
3. Amendment of section heading and section filed 11-28-2005; operative 12-28-2005 (Register 2005, No. 48).

§ 532. Change of Decision.

HISTORY

1. Repealer filed 10-2-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).

§ 533. Championship Matches and Exhibitions.

(a) Recognizing that different forms of martial arts exist, notwithstanding any rule in this division to the contrary, the commission may, in its discretion, authorize alternate rules or provisions from time to time for full contact martial arts championships and exhibitions so long as the safety and welfare of the contestants and the public are not jeopardized.

NOTE: Authority cited: Sections 18611 and 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 9–14–94; operative 10–14–94 (Register 94, No. 37).
2. Amendment filed 11–28–2005; operative 12–28–2005 (Register 2005, No. 48).

Article 4. License Requirements

§ 541. Promoter's License.

In order to be issued a promoter's license, an applicant shall meet all the following requirements:

(a) The applicant, or at least one principal of the applicant if the applicant is a corporation or partnership, shall meet the requirements for licensure as a matchmaker, or in the alternative submit evidence that the promoter employs a licensed matchmaker.

(b) Provide evidence that the promoter will have complete control over the sale of tickets, collection of tickets, counting of tickets, and preparation of revenue reports, and supervision over the box office employees, ticket takers and ushers and security for each event promoted. In the alternative a promoter may submit for review by the commission an agreement between the promoter and the facility in which events will be conducted relating the sale and accounting of tickets and revenues, preparation of required reports, the supervision of box office employees, ticket takers and ushers, and security of each event.

(c) Provide evidence that the facility or facilities in which events will be held meet state and local fire and safety requirements and have dressing rooms and facilities which meet the requirements of Rules 292, 293 and 294.

(d) Pass a written examination administered by the commission on the fundamentals of martial arts and kickboxing and California law and regulations relating to martial arts and kickboxing.

NOTE: Authority cited: Sections 18611, 18763 and 18765, Business and Professions Code. Reference: Sections 18640, 18648, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 12–17–86, effective thirtieth day thereafter (Register 86, No. 51).

§ 542. Matchmaker's License.

In order to be licensed as a matchmaker, an applicant shall pass a written examination administered by the commission on California law and regulations relating to martial arts and kickboxing, and shall have been involved in matchmaking in at least five (5) amateur events. The examination may be waived if the applicant possesses a current and valid license as a matchmaker in another state or country and has not been subject to any disciplinary action.

NOTE: Authority cited: Sections 18611, 18763 and 18765, Business and Professions Code. Reference: Sections 18640, 18648, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 12–17–86, effective thirtieth day thereafter (Register 86, No. 51).
2. Amendment filed 9–14–94; operative 10–14–94 (Register 94, No. 37).

§ 543. Referee's License.

In order to be licensed as a referee, an applicant shall meet all the following requirements:

(a) Have two years of documented experience refereeing martial arts or kickboxing matches with a minimum of 100 matches with a minimum of 100 matches refereed. It is not necessary that this experience be obtained by refereeing professional contests.

(b) Be found after examination by a licensed physician to be physically and mentally fit to referee a martial arts contest and to have uncorrected visual acuity of at least 20/100 in both eyes. Weight shall be proportionate

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to height in accordance with the standards of the American Medical Association in effect at the time of the effective date of this regulation.

(c) Be in good physical condition with the speed and reflexes in the ring necessary for the protection of the fighters.

(d) Pass a written examination administered by the commission on the fundamentals of martial arts and kickboxing, refereeing and judging martial arts matches and contests, and California law and regulations relating to martial arts and kickboxing.

(e) Perform a demonstration of competency by performing as a referee in a martial arts match before a representative of the commission and two licensed referees. The applicant shall demonstrate knowledge of refereeing techniques and the ability to manage and control a martial arts match.

(f) Perform a demonstration of competence in judging by judging at least 50 martial arts or kickboxing contests as verified by a representative of the commission.

(g) These requirements may be waived for any applicant who is licensed or approved as a referee by the Professional Kickboxing Association or the World Kickboxing Association.

(h) In order to renew a referee's license, a referee shall comply with subsections (b) and (c) in addition to any other requirements for renewal set forth in the law or these regulations.

NOTE: Authority cited: Sections 18611, 18763 and 18765, Business and Professions Code. Reference: Sections 18640, 18648, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 12-17-86, effective thirtieth day thereafter (Register 86, No. 51).

§ 544. Manager's Application.

In order to be issued a manager's license, an applicant shall pass a written examination administered by the commission on the fundamentals of martial arts and kickboxing and California law and regulations relating to martial arts and kickboxing. The examination may be waived if the applicant possesses a current and valid license as a martial arts and kickboxing manager in another state or country and has not been subject to any disciplinary action.

NOTE: Authority cited: Sections 18611, 18763 and 18765, Business and Professions Code. Reference: Sections 18640, 18648, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 12-17-86, effective thirtieth day thereafter (Register 86, No. 51).

§ 545. Second's License.

In order to be issued a second's license, an applicant shall meet all the following requirements:

(a) Pass a written examination administered by the commission on the fundamentals of martial arts and kickboxing and California laws and regulations relating to martial arts and kickboxing.

(2) Perform a demonstration of competency by demonstrating the duties of a second before a representative of the commission.

(3) The examination and demonstration of competency may be waived if the applicant possesses a current and valid license as a martial arts and kickboxing second in another state or country and has not been subject to any disciplinary action.

NOTE: Authority cited: Sections 18611, 18763 and 18765, Business and Professions Code. Reference: Sections 18640, 18648, 18763 and 18765, Business and Professions Code.

HISTORY

1. New section filed 12-17-86, effective thirtieth day thereafter (Register 86, No. 51).

§ 546. Professional Martial Arts Fighter's License—HIV/HBV Testing.

(a) As used in Section 18712(a) of the code:

(1) The phrase "within 30 days prior to the date of application" means that the blood test will be accepted for licensure purposes for 30 days from the date of the test report.

(2) The phrase "documentary evidence satisfactory to the commission" means the original or a copy of the test report on letterhead of the

laboratory, accompanied by the applicant's declaration under penalty of perjury that the report represents the applicant's HIV/HBV test results.

(b) The tests described in Section 18712 of the code shall be referred to collectively as the "HIV/HBV tests."

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18712, Business and Professions Code.

HISTORY

1. New section filed 6-16-97; operative 6-16-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
2. Repealer and new subsection (a)(1) filed 3-20-2001; operative 4-19-2001 (Register 2001, No. 12).

Chapter 3. Amateur Boxing Rules

§ 600. Citation.

The rules in this subchapter shall be cited as the "Amateur Boxing Rules."

NOTE: Authority and reference cited: Section 18611, Business and Professions Code.

HISTORY

1. New section filed 2-24-89; operative 3-26-89 (Register 89, No. 10). For prior history, see Register 87, No. 5.

§ 601. Professional Boxing Rules Apply.

The rules of the commission pertaining to professional boxing shall apply to amateur boxing unless the club or organization obtains a law and rule waiver under Section 18646 of the code or the professional boxing rules are inconsistent with these Amateur Boxing Regulations or the provisions of the Boxing Act pertaining to amateur boxing.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Amendment filed 2-24-89; operative 3-26-89 (Register 89, No. 10).

§ 602. Certification.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2-24-89; operative 3-26-89 (Register 89, No. 10).

§ 603. Examination, Ring Names.

No amateur shall be permitted to take part in a boxing contest unless the following conditions are met:

(a) All amateurs shall enter and compete in all boxing contests or tournaments under their own names. The use of a ring name is prohibited.

(b) No person who has attained the age of 36 years shall be issued an amateur license except by special permission of the commission. The commission may, in its discretion, require (1) an extensive physical examination including possible EKG, neurological examination and heart stress test; (2) a demonstration of proficiency in the ring by a gym exhibition witnessed by a qualified commission employee; and (3) a personal appearance before the commission and such other examinations as the commission may deem appropriate. The applicant shall bear the expense of any medical examination required by the commission in connection with his or her application for licensure.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642, 18646, 18661 and 18710, Business and Professions Code.

HISTORY

1. Amendment filed 10-3-68; effective thirtieth day thereafter (Register 68, No. 37).
2. Amendment filed 4-14-72; effective thirtieth day thereafter (Register 72, No. 16).
3. Repealer and new subsection (f) filed 3-9-79; effective thirtieth day thereafter (Register 79, No. 10).
4. Change without regulatory effect of NOTE (Register 87, No. 5).
5. Amendment filed 2-24-89; operative 3-26-89 (Register 89, No. 10).

§ 604. Annual Physical Examination.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2-24-89; operative 3-26-89 (Register 89, No. 10).

§ 605. Records.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 606. Registration Fee.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 607. Bonds.

HISTORY

1. Repealer filed 12–4–81; effective thirtieth day thereafter (Register 81, No. 49).
2. Change without regulatory effect of NOTE (Register 87, No. 5).

§ 608. Gymnasiums.

HISTORY

1. Repealer filed 10–3–68; effective thirtieth day thereafter (Register 68, No. 37).

§ 609. Medical Insurance.

Any amateur club or promoter licensed by the commission shall maintain a short term medical assistance insurance policy approved by the commission for all amateur boxers participating in a match conducted by the amateur club or promoter.

(b) “Short term medical assistance insurance” as used in this section, refers to coverage or payment of direct expenses of medical treatment, including emergency aid, diagnostic procedures, drugs, surgical procedures and physical therapy, arising directly from injuries incurred during an amateur boxing match in California which has been approved by the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18641, Business and Professions Code.

HISTORY

1. Amendment filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 610. Equipment.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 611. Gloves.

HISTORY

1. Repealer filed 9–28–76; effective thirtieth day thereafter (Register 76, No. 40).

§ 612. Officials.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 613. Professional Boxing Promoters.

No professional boxing promoter shall be allowed to promote or conduct any amateur boxing contest unless the promoter is licensed to promote amateur contests.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18646, Business and Professions Code.

HISTORY

1. Amendment filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 614. Matchmaker.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Amendment filed 10–3–68; effective thirtieth day thereafter (Register 68, No. 37).
2. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 615. Boxer Down.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 616. Resuming Boxing.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 617. Drawing for Tournaments.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 224–89; operative 3–26–89 (Register 89, No. 10).

§ 618. Seconds.

Each competitor who has no coach shall have one licensed second who may be furnished by the club. A coach or handler of amateur boxers shall be a licensed second or manager.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642 and 18646, Business and Professions Code.

HISTORY

1. Amendment filed 4–14–72; effective thirtieth day thereafter (Register 72, No. 16).
2. Amendment filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 619. Referee.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 620. Winner.

A winner shall be declared in tournaments, but in matched contests where both boxers have an equal number of points a draw decision may be given. Referee and/or judges shall score.

§ 621. Tampering with Amateur.

HISTORY

1. Repealer filed 9–10–75; effective thirtieth day thereafter (Register No. 75, No. 37).

§ 622. Transportation Expenses.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

§ 623. Advance Notice.

Advance notices for all amateur shows shall be filed in the office of the commission at least five days before the date of each show.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18641, Business and Professions Code.

HISTORY

1. Amendment filed 10–3–68; effective thirtieth day thereafter (Register 68, No. 37).
2. Amendment filed 2–24–89; operative 3–26–89 (Register 89, No. 10).

Chapter 4. Amateur Full–Contact Martial Arts

Article 1. General Provisions

§ 700. Citation.

The rules in this chapter shall be cited and referred to as the “Amateur Full–Contact Martial Arts and Kickboxing Rules.”

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Section 18763, Business and Professions Code.

HISTORY

1. Renumbering of former chapter 4 to new chapter 5, new chapter 4, article 1 and section filed 8–2–94; operative 9–1–94 (Register 94, No. 31).

§ 702. Professional Full–Contact Martial Arts and Kickboxing Rules Apply.

The Professional Full–Contact Martial Arts and Kickboxing Rules (Chapter 2 of this division.) shall apply to amateur full–contact martial arts and kickboxing, unless a club or organization obtains a waiver of the applicable laws and rules under Section 18646 of the code or unless they are clearly inconsistent with the rules contained in this chapter.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Section 18763, Business and Professions Code.

HISTORY

1. New section filed 8–2–94; operative 9–1–94 (Register 94, No. 31).

§ 705. Classes of Amateur Contestants.

(a) Novice Class. Any contestant who has participated in three or less full-contact martial arts or kickboxing contests approved by the commission may be in the Novice Class.

(b) Open Class. Any contestant who has participated in more than three full contact martial arts or kickboxing contests approved by the commission shall be in the Open Class.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

Article 2. Safety Standards**§ 710. Contestants' Equipment.**

In addition to that equipment required in Section 513 of these regulations, every contestant shall wear all of the following during a contest or match:

- (a) At least ten (10) ounce gloves;
- (b) If the contestant is in the Novice class, headgear that is approved by the Amateur Boxing Federation or an equivalent organization.
- (c) Padded shin guards that extend from the ankle or instep to the top of the shin, and a safety boot that covers the toes.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New article 2 and section filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

§ 711. Headgear; Under 18.

In addition to that equipment required in Section 513 and 710 of these regulations, every contestant in the Open Class who is under 18 years of age may wear a headgear that is approved by the Amateur Boxing Federation or an equivalent organization during a contest or match.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Sections 18640 and 18766, Business and Professions Code.

HISTORY

1. New section filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

Article 3. Conduct of Matches and Contests**§ 720. Number of Rounds.**

(a) The maximum number of rounds allowed for any contestant in the Novice Class shall not exceed three two-minute rounds with a one-minute rest period between rounds.

(b) The maximum number of rounds allowed for any contestant in the Open Class shall not exceed five two-minute rounds with a one-minute rest period between rounds.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New article 3 and section filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

§ 723. Kicks; Novice Class.

Between contestants in the Novice Class, the only kicks allowed are to the outside of the legs or boot and kicks to the upper body. All other kicks shall be considered a foul.

NOTE: Authority cited: Section 18763, Business and Professions Code. Reference: Sections 18640 and 18765, Business and Professions Code.

HISTORY

1. New section filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

Chapter 5. Wrestling Rules**Article 1. General Provisions****§ 800. Citation of Wrestling Rules.**

The rules in this subchapter shall be cited as the "Wrestling Rules."

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18611, Business and Professions Code.

HISTORY

1. Repealer of subchapter 3 (§§ 800 through 838 and new subchapter 3 (§§ 800 through 827) filed 6-30-64; effective thirtieth day thereafter (Register 64, No. 14). For prior history, see note to section 201 and Register 62, No. 1.
2. Renumbering of former subchapter 3 to subchapter 4 filed 10-2-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 40).
3. Renumbering of former section 800 to section 815 and new section 800 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).
4. Renumbering of chapter 4 to chapter 5 filed 8-2-94; operative 9-1-94 (Register 94, No. 31).

§ 801. Definitions.

As used in this subchapter,

- (a) "commission" means the State Athletic Commission.
- (b) "code" means the Business and Professions Code.
- (c) "Rules" means the Wrestling rules.
- (d) The terms "promoter" and "club" are synonymous and mean and include any person, partnership, club, corporation, organization, or association conducting, holding or giving wrestling exhibitions.
- (e) the masculine gender includes the feminine gender.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18611, 18620, 18621 and 18622, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 802. Professional Boxing Rules Applicable.

The following professional boxing rules when otherwise appropriate shall apply to wrestling: 202, 204, 205, 206, 210, 211, 212, 214, 218, 252, 253, 254, 260, 261, 262, 263, 264, 266, 267, 268, 269, 271, 272, 273, 274, 276, 277, 292, 293, 294, 390, 391, 392, 395 and 399.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Amendment filed 10-3-68; effective thirtieth day thereafter (Register 68, No. 37).
2. Amendment filed 12-4-81; effective thirtieth day thereafter (Register 81, No. 49).
3. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 2. Wrestler's License**§ 803. Age Limitations and Requirements.**

(a) No wrestler's license shall be issued to any person under 18 years of age.

(b) All applications for a wrestler's license shall be in writing on a form furnished by the commission. Any person who gives incorrect information in an application for a wrestler's license may have his license revoked by the commission, and any purse to which he might otherwise be entitled may be confiscated.

(c) All applicants for a wrestler's license shall be found after examination by a licensed physician to be physically and mentally fit to wrestle in a match or event and to have an uncorrected visual acuity of at least 20/100 in both eyes.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642, 18668 and 18702, Business and Professions Code.

HISTORY

1. Amendment filed 7-27-71; effective thirtieth day thereafter (Register 71, No. 30).

2. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).
3. Amendment filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

Article 3. Ring

§ 804. Ring Construction and Equipment.

The size, construction, and equipment of wrestling rings shall be as approved by the commission.

The ring floor shall be padded to a thickness as approved by the commission. A one-piece wrestling mat or soft padding may be used with a top covering of clean canvas tightly stretched and laced to the ring platform.

Any mat or padding and canvas covering which has been used for boxing matches shall not be used for wrestling exhibitions until the mat or the canvas covering has been washed and is free from resin.

The promoter shall keep the mat or padding and covering in a clean and sanitary condition.

Article 4. Referee

§ 805. Referee's Physical.

All referees shall be examined annually to establish their physical fitness. No referee's license shall be issued to a person who has attained the age of 60 years except by special action of the commission.

HISTORY

1. Amendment filed 3-26-71; effective thirtieth day thereafter (Register 71, No. 13).

[The next page is 53.]

2. Amendment filed 7-27-71; effective thirtieth day thereafter (Register 71, No. 31).

§ 805.1. License Requirement.

In order to be licensed as a wrestling referee, an applicant shall be found after examination by a licensed physician to be physically and mentally fit to referee a wrestling match or event and to have an uncorrected visual acuity of at least 20/100 in both eyes.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642 and 18648, Business and Professions Code.

HISTORY

1. New Section filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

§ 806. Selection of Referee by Club.

At any wrestling club where the promoter appoints the referee licensed by the commission, the announcer shall announce, prior to the commencement of the wrestling exhibition, that the wrestling promoter has appointed the referee by using the following language: "The referee of this wrestling event was appointed by (insert the name of the wrestling club)."

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18877, Business and Professions Code.

HISTORY

1. Repealer of former Section 806 and renumbering and amendment of former Section 828 to Section 806 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43). For history of former section, see Register 64, No. 14.

§ 807. Dangerous Conduct; Punishment.

The referee shall not permit physically dangerous conduct or tactics by any wrestler. Any wrestler who fails to discontinue such tactics, after being warned by the referee, shall be disqualified and subject to disciplinary action.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18777 and 18841, Business and Professions Code.

HISTORY

1. Amendment filed 10-3-68; effective thirtieth day thereafter (Register 68, No. 37).

2. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 5. Timekeeper

§ 808. Timekeeper.

There shall be a timekeeper appointed by the promoter present at all exhibitions. He shall officially keep time and follow the instructions of the referee.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 809. Timekeeper's Duties.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 810. Periods.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 811. Time Limit Exhibitions.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 6. Club Physician

§ 812. Club Physician's Duties.

A club physician approved by the commission shall examine all wrestlers and referees before they enter the ring for an exhibition and shall be present during the exhibition. No wrestler shall be permitted to wrestle who is suffering from any illness. The physician shall report to the commission any wrestler or referee examined proven unfit for participating in a wrestling exhibition. Such wrestler or referee shall be suspended until it is shown that he is fit for further participation in a wrestling exhibition.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18646, 18705 and 18706, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 813. Physical Examination of Wrestlers.

Any wrestler applying for a license, or annual renewal thereof, shall be examined by a physician who is licensed in California or any other state and who is approved by the commission to establish physical fitness.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18642 and 18648, Business and Professions Code.

HISTORY

1. Amendment filed 10-3-68; effective thirtieth day thereafter (Register 68, No. 37).

2. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 7. Promoters and Exhibitions

§ 814. Advance Notice.

At least seven days before wrestling exhibitions, the promoter shall furnish the commission an advance notice giving the names of the wrestlers to be used in the exhibitions.

The commission shall be promptly notified of any changes or additions to this notice. The forms for this notice shall be furnished by the commission. Notice of any change in announced or advertised wrestling programs or wrestling exhibitions shall be given to the press if there is sufficient time and an announcement shall be made prior to the program indicating the change and advising patrons desiring refunds to present their tickets to the box office at once. The box office shall remain open a reasonable length of time to redeem such tickets.

NOTE: Authority cited: Sections 18624, 18682 and 18751, Business and Professions Code. Reference: Sections 18670 and 18748.5, Business and Professions Code.

HISTORY

1. Repealer and new section filed 7-19-66; effective thirtieth day thereafter (Register 66, No. 23).

2. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 815. Wrestling Exhibitions.

Unless a special license is obtained, all professional wrestling programs under the supervision and authority of the commission are exhibitions only, and not contests, and any such exhibitions cannot be advertised or announced as contests.

NOTE: Authority cited: Sections 18624, 18682 and 18751, Business and Professions Code.

HISTORY

1. Renumbering of former Section 800 to Section 815 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43). For history of former section, see Register 81, No. 49.

§ 816. Duties of Licensees.

It shall be the duty of the referee, promoter, and his agents, attaches and employees, and the participants in any wrestling exhibition to maintain peace and order in the conduct of any exhibition. There shall be no abuse of a commission official at any time.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18777, Business and Professions Code.

HISTORY

1. Repealer of former Section 816 and renumbering and amendment of former Section 825 to Section 816 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43). For history of former section, see Registers 84, No. 40 and No. 64.

§ 817. Promoter's License.

In order to be issued a wrestling promoter's license, an applicant shall meet all the following requirements:

(a) Provide evidence that the promoter will have complete control over the sale of tickets, collection of tickets, counting of tickets, and preparation of revenue reports, and supervision over the box office employees, ticket takers and ushers and security for each event promoted. In the alternative a promoter may submit for review by the commission an agreement between the promoter and the facility in which events will be conducted relating to the sale and accounting of tickets and revenues, preparation of required reports, the supervision of box office employees, ticket takers, ushers, and security of each event.

(b) Provide evidence that the facility or facilities in which events will be held meet state and local fire and safety requirements and have dressing rooms and facilities which meet the requirements of Rules 292, 293 and 294.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18641 and 18648, Business and Professions Code.

HISTORY

1. New section filed 12-17-86; effective thirtieth day thereafter (Register 86, No. 51).

Article 8. Costumes for Wrestlers

§ 818. Wrestlers' Appearance.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 9. Contracts

§ 819. Contracts.

Any contract or agreement between a wrestler and a promoter and/or booking agent shall be in writing, signed by all parties and made available to the commission on demand.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640 and 18641, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 10. Accounts

§ 820. Records.

Promoters, booking agents, managers and others licensed in connection with the promotion of wrestling exhibitions, shall maintain a full, true and accurate set of books of account and other records of receipts and disbursements in connection with all exhibitions, and the records shall at all times be open to the inspection and audit by representatives of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Sections 18640, 18824, 18825 and 18826, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 821. Payment of Wrestlers.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 11. Booking Agents

§ 822. Booking Agent.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 823. Wrestler Must Indicate Authorized Booking Agent.

NOTE: Authority cited: Section 18611, Business and Professions Code.

HISTORY

1. Repealer filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

Article 12. Miscellaneous Provisions

§ 824. Responsibility of Club.

(a) Each club shall be directly responsible to the commission for the conduct of its employees, and any violation of the act or of the rules and regulations of the commission by any employee of a club shall be deemed to be a violation by the club.

(b) Clubs and booking agents, if any, are responsible for any violations of the act or commission rules by their wrestlers.

NOTE: Authority cited: Sections 18624, 18670, and 18682, Business and Professions Code. Reference: Sections 18670 and 18682, Business and Professions Code.

HISTORY

1. Amendment filed 12-4-81; effective thirtieth day thereafter (Register 81, No. 49).

§ 825. Duties of Licensees.

HISTORY

1. Renumbering and amendment of former Section 825 to Section 816 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43). For history of former Section, see Registers 84, No. 40 and 64, No. 14.

§ 826. Discrimination.

There shall be no discrimination against any participant on account of sex, race, color or creed.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. Amendment filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 827. Women Wrestlers Prohibited.

HISTORY

1. Repealer filed 10-3-68; effective thirtieth day thereafter (Register 68, No. 37).

§ 828. Selection of Referee by Club.

NOTE: Authority cited: Section 18624, Business and Professions Code. Reference: Section 18743.3, Business and Professions Code.

HISTORY

1. New section filed 5-23-66; effective thirtieth day thereafter (Register 66, No. 15).
2. Renumbering and amendment of former Section 828 to Section 806 filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

§ 829. Postponement or Cancellation.

A small advance sale shall not be regarded as legitimate reason for a postponement. Indoor wrestling shows shall not be cancelled for any reason except with the written approval of the commission.

NOTE: Authority cited: Section 18611, Business and Professions Code. Reference: Section 18640, Business and Professions Code.

HISTORY

1. New section filed 10-17-86; effective thirtieth day thereafter (Register 86, No. 43).

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**CALIFORNIA
CODE OF
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Title 4. Business Regulations

Division 3. Bureau of Home Furnishings

Vol. 5

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Division 3. Bureau of Home Furnishings

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Division 3. Bureau of Home Furnishings

(Originally Printed 3-22-45)

Article 1. General Provisions

§ 1100. Location of Offices.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19034, Business and Professions Code.

HISTORY

1. Amendment filed 8-17-66; effective thirtieth day thereafter (Register 66, No. 27). For prior history, see Register 56, No. 15.
2. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. * Repealer of Article 1 (Sections 1100-1119.2, not consecutive) and new Article 1 (Sections 1100-1121) filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, Nos. 50 and 11; 74, No. 19; 66, No. 27; and 63, No. 25.
5. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1101. Definitions of Bureau and Act.

For the purposes of these rules and regulations, the term "Bureau" means the Bureau of Home Furnishings, and the term "act" means Chapter 3 of Division 8 of the Business and Professions Code, which chapter is also cited as the Home Furnishings Act.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19000 and 19004, Business and Professions Code.

§ 1102. Scope.

It is hereby declared to be the purpose of these regulations and the policy, intent and direction of the Bureau to employ the terms, definitions and nomenclature as are commonly used, and as recognized in the manufacture, sale and distribution of furniture and bedding products. Classifications of materials in these regulations are intended to have understandable meaning to the ultimate consumer.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19034, Business and Professions Code.

§ 1103. "Separate Service to the Trade."

As used in Section 19014 of the act, includes any of the following services by the parent house, when rendered by a subsidiary establishment:

(a) Sale of Goods. Except for the display and sale of goods in an established furniture mart or exchange when the subsidiary establishment is the principal place of business of the wholesaler maintaining the display and service.

(b) Delivery of goods sold in the subsidiary establishment with local stock and independent of the parent house.

(c) Entire or partial billing for goods sold and delivered.

(d) Entire or partial billing and collection for goods sold and delivered.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19014, Business and Professions Code.

HISTORY

1. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1104. The Term "On His or Her Own Account."

As used in Sections 19060.5 and 19060.6 of the act, the term "on his or her own account" is intended to limit the requirement for a license to the person who is obligated as a principal in contracts to sell or contracts to render services. The requirement for a license does not extend to salesmen, factors, agents, solicitors, factory representatives or those who act only in a representative capacity for others.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19060.5 and 19060.6, Business and Professions Code.

HISTORY

1. Amendment of section heading and section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1105. Exemptions.

Articles which are not clearly upholstered furniture or bedding, as described in the act, may be declared exempt from the provisions of the act and these regulations, except that when exempted articles are labeled they become subject to the act and the regulations and must be labeled in conformity therewith. No questionable articles shall be considered as exempt, however, until the articles or photographs thereof, have been submitted to the Bureau for inspection and final authority for exemption has been granted.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19006, 19007 and 19034, Business and Professions Code.

§ 1106. Applications for License and Renewal Applications.

NOTE: Authority cited: Sections 19034 and 19050, Business and Professions Code. Reference: Section 19050, Business and Professions Code.

HISTORY

1. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1107. License Fees.

(a) Except as provided in subsection (b) herein, the fees for the issuance and biennial renewal of the following licensing categories shall be fixed as follows:

(1) Importer's license	\$650
(2) Furniture and bedding manufacturer's license	650
(3) Wholesale furniture and bedding dealer's license	540
(4) Supply dealer's license	540
(5) Custom upholsterer's license	360
(6) Sanitizer's license	360
(7) Retail furniture dealer's license	120
(8) Retail bedding dealer's license	120
(9) Retail furniture and bedding dealer's license	240

(b) The reduction or waiver of any license fee shall be made only in accordance with subsections (b) and (c) of section 19170 of the Business and Professions Code.

(c) The delinquency fee and additional penalty fees are those specified in section 19170.5 of the Business and Professions Code.

NOTE: Authority cited: Sections 19034 and 19170, Business and Professions Code. Reference: Sections 19170 and 19170.5, Business and Professions Code.

HISTORY

1. Amendment filed 3-20-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 12).
2. Amendment of subsections (a) and (c) filed 6-6-91; operative 7-6-91 (Register 91, No. 31).
3. Amendment filed 2-8-94; operative 2-8-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 6).
4. Amendment filed 6-19-97; operative 7-19-97 (Register 97, No. 25).
5. Amendment of subsection (a) filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).
6. Amendment of subsections (a)(1)-(2) filed 9-3-2002; operative 9-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 36).

§ 1108. Procedure Re License.

(a) A new license must be secured when there is change of ownership.

(b) Licensees must notify the Bureau within thirty (30) days of a change of name and/or address when the ownership remains the same.

(c) All furniture and bedding manufacturers whose products are offered for sale in California, regardless of the point of manufacture, must hold a valid license with the Bureau.

(d) Importer as defined in Business & Professions Code Section 19011.1 includes, but is not limited to, "brokers" and "traders".

(e) Manufacturers located outside of the United States who do not hold an Importer's license, must obtain a Furniture and Bedding Manufacturer's license if their products are imported into California.

(f) A licensed importer in the United States may co-hold a license with a manufacturer located outside the United States. A co-holder license can only be held by one importer in the United States on behalf of one manufacturer outside the United States.

(g) If an importer chooses to hold a co-holder license with more than one manufacturer outside the United States, he/she shall obtain a separate co-holder license with each manufacturer. There is no limit on the num-

ber of co-holder licenses an importer may hold, but only one manufacturer may appear on each co-holder license; licenses may not be pooled.

NOTE: Authority cited: Sections 19034 and 19061.5, Business and Professions Code. Reference: Sections 19053.1, 19054, 19060, 19061 and 19061.5, Business and Professions Code.

HISTORY

1. Repealer of subsections (a), (b), (d) and (e), subsection relettering, new subsections (b)–(g) and amendment of NOTE filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1109. Registry Numbers.

(a) *The location of every manufacturer, custom upholsterer, sanitizer, supply dealer or importer who manufactures shall bear a separate registry number. The registry number uniquely identifies each location (branch) of a licensed manufacturer, custom upholsterer, sanitizer, supply dealer, or importer.*

(b) No registry number shall be issued or recognized without the required license fee.

(c) The registry number must appear on the law label that is attached to all upholstered furniture, bedding or filling materials.

(d) Every registry number issued by the Bureau shall be exclusively for the person to whom it is issued and the number shall not hereafter be reissued to, or used by, any other person.

NOTE: Authority cited: Sections 19034 and 19061.5, Business and Professions Code. Reference: Sections 19060, 19061 and 19061.5, Business and Professions Code.

HISTORY

1. Renumbering of former section 1109 to section 1110 and new section 1109 filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1110. “Withhold from Sale” Tag.

A “Withhold from Sale” tag attached by the Bureau to the material or article of upholstered furniture and bedding withheld from sale shall not be concealed or obstructed from view in any manner. The licensee shall not remove *or allow the removal of* the withhold from sale tag without the express approval of the Bureau.

NOTE: Authority cited: Sections 19034 and 19081, Business and Professions Code. Reference: Sections 19081, 19202, 19203 and 19204, Business and Professions Code.

HISTORY

1. Renumbering of former section 1110 to section 1111 and renumbering and amendment of former section 1109 to section 1110 filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1111. Names of Filling Materials.

The kinds and types of filling materials shall be stated on the law label. Any kinds and types of filling materials that are not named or defined in these regulations will be assigned names for labeling purposes when samples are submitted to the Bureau.

NOTE: Authority cited: Sections 19034, and 19089, Business and Professions Code. Reference: Sections 19080, 19081 and 19089, Business and Professions Code.

HISTORY

1. Renumbering of former section 1110 to section 1111 filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34). For prior history, see Register 96, No. 30.

§ 1112. Additional Terms Not Prohibited.

These regulations shall not be construed as prohibiting the use in conjunction with the prescribed names or descriptive terms, of additional words or phrases that correctly designate and more fully describe any filling material, when such additional words or phrases are required or approved by the Bureau.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19080, 19081 and 19089, Business and Professions Code.

§ 1113. Deviations from Percentages Stated.

Any deviation from percentages stated of a blend of types or kinds of filling materials shall not exceed 10% of the smaller component, i.e., a product labeled as 50% polyester fiber/50% polyurethane must contain no less than 45% polyester fiber.

NOTE: Authority cited: Sections 19034 and 19081, Business and Professions Code. Reference: Sections 19081, 19088, 19089 and 19150, Business and Professions Code.

§ 1114. Water Repellent, Water Resistant.

Articles and materials labeled as “water repellent,” “water resistant” and words of similar import shall conform to a minimum rating of 90 when tested in accordance with the American Association of Textile Chemists and Colorists’ Designation 22–1980 “Water Repellence: Spray Test.”

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

§ 1115. Rot Proof, Rot Resistant.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Repealer filed 7–24–96; operative 8–23–96 (Register 96, No. 30).

§ 1116. Mildew Proof, Mildew Resistant.

Articles and materials labeled as mildew proof, mildew resistant and words of similar import shall show no visual growth when examined by the unaided eye when tested by the American Association of Textile Chemists and Colorists’ Designation 30–1979, Section 9, *Aspergillus Niger*–glucose Mineral Salts Agar Test.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

§ 1117. Wind Resistant, Wind Proof.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Repealer filed 7–24–96; operative 8–23–96 (Register 96, No. 30).

§ 1118. Moth Proof, Moth Resistant.

Articles and materials labeled as moth proof, moth resistant and words of similar import shall show no damage when tested in accordance with the American Association of Textile Chemists and Colorists’ Designation 24–1980 “Resistance of Textiles to Insects,” using the fabric weight loss method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

§ 1119. Bacteria Resistant, Odor Resistant.

Articles and materials labeled as bacteria resistant, odor resistant or words of similar import shall demonstrate clear areas of no growth adjacent to the fabric when tested in accordance with the American Association of Textile Chemists and Colorists’ Designation 147–1977 “Detection of Antibacterial Activity of Fabrics: Parallel Streak Method.”

NOTE: Authority Cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

§ 1120. Stain Resistant, Stain Repellent.

Articles labeled as “stain resistant,” “stain repellent” and words of similar import shall not allow an oil or water based staining material to penetrate or wick into the textile product when tested in accordance with Bureau of Home Furnishings Technical Bulletin No. 107 dated July, 1973.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

§ 1121. Soil Resistant, Soil Repellent.

Articles labeled as “soil resistant,” “soil repellent” and words of similar import shall permit the textile product to release household type dirt or dry soil when tested in accordance with Bureau of Home Furnishings Technical Bulletin No. 108 dated July, 1973.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088, 19089 and 19150, Business and Professions Code.

Article 2. Official Law Labels for Upholstered Furniture and Bedding and for Bulk Filling Material

§ 1125. Labeling Requirements.

The kinds, types and percentage of filling materials used in articles of upholstered furniture and bedding and in bulk form concealed or not concealed shall be stated on the law label. Percentages shall be computed on the basis of avoirdupois weight of the filling material present and shall be designated on the law label in order of predominance, the largest component first.

NOTE: Authority cited: Sections 19034 and 19081, Business and Professions Code. Reference: Sections 19080, 19081 and 19089, Business and Professions Code.

HISTORY

1. * Repealer of Article 2 (Sections 1120–1122) and new Article 2 (Sections 1125 and 1126) filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50; 75, No. 39; 74, No. 19; 68, No. 25; and 66, No. 27.
 2. Editorial correction relocating Article 2 heading to precede Section 1125 (Register 83, No. 8).
- * The reorganization of Article 2 is printed as a repealer and adoption for clarity.

§ 1126. Official Law Label Requirements.

(a) Attachment of Law Labels. Labels shall be securely fastened onto completed articles and bulk materials in a manner approved by the Bureau in such an area as to be openly and easily visible to view. Labels are not to be concealed or obstructed from view in any manner.

(b) Label Material. Law labels shall be constructed of material approved by the Bureau and shall not be easily torn or defaced.

(c) Color of Label and Color of Ink:

(1) A white law label printed in black ink shall be used for new materials.

(2) A red law label printed in black ink shall be used for materials which are in whole or in part secondhand (used).

(3) A green label printed in black ink shall be used for "Owner's Material."

(d) Statements and Headings to be Shown on Law Labels:

(1) "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear at the top of the label.

(2) Headings shall read "All New Material" when the material is wholly new; "Secondhand (Used) Material" when the material is in whole or in part secondhand.

(3) Description of filling material as provided in the applicable regulations.

(4) For owner's own materials the heading shall state: "THIS ARTICLE NOT FOR SALE"—"OWNER'S MATERIAL."

(5) The registry number assigned or approved by the Bureau.

(6) "Certification is made by the manufacturer that the materials in this article are described in accordance with law."

(7) For owner's own materials the certification portion of the label shall state: "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN ACCORDANCE WITH LAW AND CONSIST OF THE FOLLOWING."

(8) For owner's own materials the name and address of the owner.

(9) The finished size of articles of bedding such as sleeping bags, mattresses, comforters, mattress pads, pads, box springs, pillows, and similar articles, showing the width and length expressed in inches. Decorator pillows need not show size.

(10) The net weight of filling materials in articles of bedding such as sleeping bags, mattresses, box springs, pads and similar items, stated in pounds and ounces.

(11) All bulk filling materials which meet the requirements of Bureau of Home Furnishings Technical Bulletin No. 117, dated March 2000 shall have imprinted on the law label immediately following the requirements as set forth in subsection (c) of this section the statement: "THIS PRODUCT MEETS THE REQUIREMENTS OF BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN NO. 117."

(12) In addition to the requirements set forth in subsection (11) of this section all invoices for products meeting the requirements of Bureau of Home Furnishings Technical Bulletin No. 117, dated March 2000 shall have stated on such invoices the identification of the product meeting the requirement and the statement that such identified products meet the requirements of Bureau of Home Furnishings Technical Bulletin No. 117.

(e) Size of Law Labels and Type of Printing:

(1) The minimum size of labels shall be 2 x 3 inches. Labels shall be larger when the required size of type and statements make it necessary.

(2) The minimum size of type shall be one-eighth inch in height, in capital letters.

(3) All printing shall be in English.

(f) Forms of Law Labels.

Type No. 1

For articles of upholstered furniture without loose cushions, also for decorator pillows, chair cushions, quilted bedspreads, headboards, hassocks, and similar items.

(Space for stitching)		(WHITE LABEL) Minimum type size one-eighth inch in height, in capital letters. Insert description of filling materials by clearly imprinting in English, using capital letters not less than one-eighth inch high. Name and address of vendor or manufacturer optional.
UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER.		
ALL NEW MATERIAL consisting of		
(This space for revenue stamp when required)	Registry No. Certification is made by the manufacturer that the materials in this article are described in accordance with law.	
Name and address of vendor or manufacturer		

Type No. 2

For articles of furniture with loose cushions.

<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER.</p>		(WHITE LABEL)
<p>ALL NEW MATERIAL consisting of</p> <p>BODY:</p>		← Minimum type size one-eighth inch in height, in capital letters.
<p>BACK CUSHIONS:</p>		{ Insert description of filling materials by clearly imprinting in English, using capital letters not less than one-eighth inch high.
<p>SEAT CUSHIONS:</p>		
<p>(This space for revenue stamp when required)</p>	<p>Registry No.</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p>	
<p>Name and address of vendor or manufacturer</p>		← Name and address of vendor or manufacturer optional.
<p>(Space for stitching)</p>		

Type No. 3

For owner's own materials.

(Space for stitching at top or bottom)

**UNDER PENALTY OF LAW THIS TAG NOT
TO BE REMOVED EXCEPT BY THE
CONSUMER.**

This Article Not For Sale

OWNER'S MATERIAL

Certification is made that this article contains
the same material it did when received from the
owner and that added materials are described
in accordance with law, and consist of the fol-
lowing

ALL NEW MATERIAL

Renovated
or repaired
by:

Registry No. _____ Date _____

Owner: _____

Address: _____

(Space for stitching at top or bottom)

(GREEN LABEL)

← Minimum type size one-eighth
inch in height, in capital
letters.

← Insert description of filling
materials by clearly imprinting
in English, using capital letters
not less than one-eighth inch
high.

← This space optional.

Type No. 4

For bulk filling materials such as batting and pads.

Space for stitching or tying.
(Method optional)

**UNDER PENALTY OF LAW THIS TAG NOT
TO BE REMOVED EXCEPT BY THE
CONSUMER.**

ALL NEW MATERIAL

Minimum type size one-eighth
inch in height, in capital let-
ters.

Insert description of filling
materials by clearly imprinting
in English, using capital letters
not less than one-eighth inch
high.

Net Wt. _____

Certification is made by the manufacturer that
the materials in this article are described in ac-
cordance with law.

REGISTRY NO.

This space is optional.

Name and address of vendor
or manufacturer

Type No. 5

For packaged filling materials ready for use by the ultimate customer.

**UNDER PENALTY OF LAW THIS TAG NOT
TO BE REMOVED EXCEPT BY THE
CONSUMER.**

ALL NEW MATERIAL

REGISTRY NO.

Certification is made by the manufacturer that
the materials in this article are described in ac-
cordance with law.

Name and address of vendor
or manufacturer

← Minimum type size one-eighth
inch in height, in capital let-
ters.

← Insert description of filling
materials by clearly imprinting
in English, using capital letters
not less than one-eighth inch
high.

← This space optional.

Type No. 6

For articles of bedding, such as bed pillows, comforters, mattress pads and similar items.

(Space for stitching)	
UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER.	
ALL NEW MATERIAL consisting of	
Finished Size _____	
	Registry No. _____ Certification is made by the manufacturer th- at the materials in this article are described in ac- cordance with law.
Name and address of vendor or manufacturer	

(WHITE LABEL)

← Minimum type size one-eighth
inch in height, in capital let-
ters.

← Insert description of filling
materials by clearly imprinting
in English, using capital letters
not less than one-eighth inch
high.

← This space optional.

Type No. 7

For sleeping bags, pads, mattresses, including a hybrid flotation sleep system containing a quilted fabric cover over a traditional water filled bladder, box springs and similar items.

(Space for stitching)		<p>(WHITE LABEL)</p> <p>← Minimum type size one-eighth inch in height, in capital letters.</p> <p>← Insert description of filling materials by clearly imprinting in English, using capital letters not less than one-eighth inch high.</p> <p>← This space optional.</p>	
<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER.</p>			
<p>ALL NEW MATERIAL</p> <p>consisting of</p>			
<p>Finished Size _____</p>	<p>Net Wt. of Filling Mat'l _____</p>		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; height: 150px;"></td> <td style="width: 30%; padding: 5px;"> <p>Registry No. _____</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p> </td> </tr> </table>			
	<p>Registry No. _____</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p>		
<p>Name and address of vendor or manufacturer</p>			

Type No. 8

For bulk material such as batting and any filling material in loose or pre-fabricated form used or which can be used in articles of upholstered furniture.

The diagram shows a rectangular tag with a pointed top and a small circle at the apex. The tag is divided into several sections:

- Top Section:** A small rectangular area at the top, below the circle. An arrow points to it with the text: "Space for stitching or tying. (Method optional)".
- Warning Section:** A rectangular section below the top section containing the text: "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER."
- Material Description Section:** A large rectangular section below the warning section. It contains the text: "ALL NEW MATERIAL". An arrow points to this section with the text: "Minimum type size one-eighth inch in height, in capital letters."
- Description Section:** A large rectangular section below the material description section. It contains the text: "Insert description of filling materials by clearly imprinting in English, using capital letters not less than one-eighth inch high." An arrow points to this section with the same text.
- Net Weight Section:** A line with the text "Net Wt." followed by a blank space for writing.
- Certification Section:** A rectangular section containing the text: "Certification is made by the manufacturer that the materials in this article are described in accordance with law. This product meets the requirements of Bureau of Home Furnishings Technical Bulletin Number 117."
- Registry Section:** A rectangular box containing the text "Registry No." followed by a blank space for writing. An arrow points to this section with the text: "This space optional".
- Vendor Information Section:** A small rectangular section at the bottom containing the text: "Name and address of vendor or manufacturer".

Type No. 9

For bedding articles that contain whole or in part any secondhand (used) filling materials.

UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER.	
THIS PRODUCT CONTAINS SECONDHAND (USED) FILLING MATERIALS	
FINISHED Size _____	NET WGT. OF FILLING Mat'l _____ lbs.
REGISTRY NO.	
Certification is made by the manufacturer that the materials in this article are described in accordance with the law.	
Name and address of vendor or manufacturer	

(RED LABEL)

← Minimum type size one-eighth inch
in height, in capital letters.

← Insert description of any newly added filling
materials.

← Optional information

NOTE: Authority cited: Sections 19034 and 19081, Business and Professions Code. Reference: Sections 19080, 19081, 19086, 19087, 19088, 19089.3, 19089.5, 19092 and 19093, Business and Professions Code.

HISTORY

1. Amendment of subsections (c)(2), (d)(2), (d)(4), (d)(7) and (d)(8), amendment of subsection (f) Law Label Types 3, 6 and 7 and new Law Label Type 9 filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).
2. Amendment of subsections (d)(11) and (d)(12) filed 8-16-2000; operative 8-16-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 33).

Article 2.5. Universal Filling Material Requirements

§ 1130. Cleanliness.

All filling materials shall be reasonable clean and free from trash, pith, pulp, extraneous materials, sludge, oil, grease, fat, filth, excreta, skin, epidermis, disagreeable odors and contamination.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19089, 19121, 19160 and 19202, Business and Professions Code.

HISTORY

1. New Article 2.4 (Sections 1130-1134) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1131. Oil and Grease Limitations.

When any filling material contains more than 5.0% of oil, grease or fat or a combination thereof the material is not permissible for sale in California.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19089, 19121, 19160 and 19202, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1132. Trash Limitation-Vegetable Fibers.

When any filling material of vegetable origin contains more than 15% of trash or pulp and undecorticated fiber the material is not permissible for sale in California.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19089, 19121, 19160 and 19202, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

2. Editorial correction amending section (Register 2008, No. 2).

§ 1133. Sludge Limitation.

When any filling material contains more than 0.3 milliliters of sludge the material is not permissible for sale in California. Sludge shall mean any material from a 20 gram sample of filling material which will settle out of a solution which has passed through a 40 mesh sieve.

NOTE: Authority cited: Sections 19034, Business and Professions Code. Reference: Section 19089, 19121, 19160 and 19202, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1134. Residue Limitation.

When any filling material contains more than 5.0% of residue the material is not permissible for sale in California.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19089, 19121, 19160 and 19202, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

Article 3. Universal Definitions and Labeling

§ 1135. Terms of Definitions and Label Requirements.

The following terms shall be stated on the law label when applicable in addition to other labeling nomenclature required by these regulations.

(a) "Batting" shall mean fibers which have been carded or garnetted into layer form.

(b) "Bleached" shall mean any product whose intrinsic color had been removed and whiteness improved by treating with a chemical compound.

(c) "Colored" or "Dyed" shall mean any filling material which has been treated and impregnated with coloring material.

(d) "Damaged" shall mean any filling material or article, which has been adversely affected by machine processing or by exposure to fire, water or other elements or source.

(e) "Fibers of Unknown Kind" shall mean miscellaneous new textile materials of unknown origin, and for practical purposes, unknown fiber content.

(f) "Gel" is any filling material of a semi-solid form, typically encased in a leak proof fabric cover and consisting of a mixture of water or other liquid base, dissolved chemicals and/or a suspension of other chemicals, which provides special ergonomic and resiliency properties.

(g) "Pad" shall mean any filling material which is interwoven, punched, pressed, shaped, or otherwise fabricated into pad form.

(h) "Resinated" or "Resin Treated" shall mean any filling material treated with a combination of synthetic resin or a combination of synthetic resin and latex.

(i) "Rubberized" shall mean any filling material which had been treated with a latex compound.

(j) "Shredded" shall mean any filling material which has been cut or torn into pieces.

(k) "Trash" shall mean shell, shale, stick, stem, leaf, boll, seed and foreign matter.

(l) "Waste" shall mean filling material with any of the following characteristics:

- (1) Trash content in excess of 7.0%.
- (2) Grease and oil content in excess of 2.0%.
- (3) Bits or scraps of cellulose wadding, paper, or other foreign matter.
- (4) Variable diameter fiber.
- (5) Pulp and undecorticated fiber in excess of 10.0%.
- (6) Bits or scraps of fabric.

(m) "Recycled Fibers" shall mean new fibers which are the by-product resulting from a textile processing method. Such recycled fibers shall not have a thread content in excess of 5.0%.

NOTE: Authority cited: Sections 19034, 19088 and 19150, Business and Professions Code. Reference: Sections 19080, 19081, 19088 and 19089, Business and Professions Code.

HISTORY

1. Repealer of Article 3 (Section 1140 and 1141) and new Article 3 (Section 1135) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19). For history of former Article 3, see Registers 66, No. 27 and 68, No. 25.
2. Amendment of subsection (l) and new subsection (m) filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
3. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. Amendment filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1136. Definitions of Types of Bedding.

(a) Box Springs shall mean an article designated to support a mattress, consisting of coiled springs on a wood, metal, plastic, or any such combination thereof, frame upholstered on top with filling material and covered on top and sides with fabric.

(b) Matching Box Springs shall mean an article designated to support a mattress, consisting of coiled springs on a wood, metal, plastic, or any such combination thereof, frame, upholstered on top with filling material and covered on top and sides with the same fabric as the mattress.

(c) Foundation shall mean any structure designed to support a mattress.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19007, Business and Professions Code.

HISTORY

1. New section added 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Editorial correction of subsections (b) and (c) (Register 96, No. 49).
4. Amendment of subsection (b) filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1137. Care Instructions.

Effective October 1, 1977, all sleeping bags, mattress pads, comforters, bedspreads, coverlets, quilts and similar articles shall have a label sewn onto the article stating instructions for laundering and cleaning.

NOTE: Authority cited: Section 19034 and 19081, Business and Professions Code. Reference: Section 19080 and 19081, Business and Professions Code.

HISTORY

1. New section added 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

Article 4. Cotton Regulations

§ 1180. Labeling Requirements.

NOTE: Authority cited for Article 5: Section 19034, Business and Professions Code. Reference: Sections 19060, 19061, 19080, 19081, 19089, 19123.6, 19124, 19127, 19158, 19170, 19170.5, 19201, 19203, Business and Professions Code.

HISTORY

1. Amendment of Article 5 (Sections 1180 through 1197) filed 5-19-66; effective thirtieth day thereafter (Register 66, No. 4). For history of former section see Registers 54, No. 9 and 56, No. 15.
2. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. Repealer of Articles 4 and 4.1 (Sections 1149-1156) and renumbering of Article 5 (Section 1180-1185) to Article 4 (Sections 1181 and 1182) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19). For history of former Articles 4, 1.4 and 5, see Registers 66, No. 4, No. 27 and 68, No. 25.

§ 1181. Optional Labeling.

In lieu of the requirement set forth in Section 1125 of these regulations, any cotton filling material may be designated on the law label as "Blended Cotton" without stating the types of cotton present.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Editorial correction (Register 83, No. 8).

§ 1182. Definitions of Types of Cotton.

(a) "Cotton" shall mean a vegetable seed fiber consisting of unicellular hairs attached to the seed of several species of the genus *Gossypium* of the family Malvaceae.

(b) "Staple" shall mean the staple fibrous growth as removed from cottonseed in the usual process of ginning (first cut from seed).

(c) "Comber" shall mean the cotton waste resulting from running card sliver through a combing machine.

(d) "Fly" shall mean the cotton waste resulting when cotton is introduced to the carding machine.

(e) "Gin Flues" shall mean the cotton waste resulting from staple cotton in the ginning mill.

(f) "Picker" shall mean the cotton waste remaining after cotton has been run through the picker in the cotton mill.

(g) "Strips" shall mean the cotton waste produced by or removed from the carding cloth following the carding process.

(h) "Linters" shall mean the fibrous growth resulting from the first cut of the cottonseed (subsequent to the usual first process of ginning) in the cotton oil mill.

(i) "Second Cut Linters" shall mean the fibrous growth resulting from the second cut of cottonseed in the cotton oil mill.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Sections 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Amendment filed 5-19-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1183. Maximum Deviations.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1184. Additional Terms Not Prohibited.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1185. Application of This Article.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

Article 5. Plumage Regulations

§ 1190. Labeling Requirements.

NOTE: Authority cited for Article 5: Section 19034, Business and Professions Code. Reference: Sections 19060, 19061, 19080, 19081, 19089, 19123.6, 19124, 19127, 19158, 19170, 19170.5, 19201, 19203, Business and Professions Code.

HISTORY

1. Amendment of Article 6 (Sections 1190 through 1197) filed 5-19-66; effective thirtieth day thereafter (Register 66, No. 4). For history of former section see Registers 61, No. 2 and 62, No. 6.
2. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. Repealer of Article 6 (Sections 1190-1197) to Article 5 (Section 1192-1197) to Article 5 (Sections 1192-1195) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
4. Editorial correction of NOTE (Register 79, No. 29).

§ 1191. Official Law Label Requirements.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 73, No. 19).

§ 1192. Definitions of Types and Kinds of Plumage.

(a) "Crushed Feathers" shall mean feathers which have been processed by a curling, crushing or chopping machine and includes the fiber resulting from such processing and which has changed the original form of the feather without removing the quill.

(b) "Damaged Feathers" shall mean feathers which have been broken, injured by insects or depreciated from the original value in any manner.

(c) "Down" shall mean the undercoating of waterfowl, consisting of the light fluffy filaments "barb" growing from one quill point but without any quill shaft.

(d) "Down Fiber" shall mean the detached barbs from down and plumules and detached barbs from the basal end of the waterfowl quill shaft which are indistinguishable from the barbs of down.

(e) "Feathers" shall mean the plumage or out-growth forming the contour and external covering of fowl which are whole in structure and which have not been processed in any manner other than dusting and washing.

(f) "Feather Fiber" shall mean the detached barbs of feathers which are not joined or attached to each other.

(g) "Landfowl" shall mean plumage derived from chickens and turkeys.

(h) "Plumage" shall mean the outercovering of fowl.

(i) "Plumules" shall mean waterfowl plumage with underdeveloped soft and flaccid quill with barbs indistinguishable from those of down.

(j) "Quill Feathers" shall mean feathers exceeding four inches in length or having a quill point exceeding 6/16ths of an inch in length.

(k) "Residue" shall mean quill pith, quill fragments, trash or foreign matter.

(l) "Waterfowl" shall mean plumage derived from ducks or geese.

(m) "Duck" shall mean plumage derived from ducks.

(n) "Goose" shall mean plumage derived from geese.

(o) "Turkey" shall mean plumage derived from turkeys.

(p) "Chicken" shall mean plumage derived from chickens.

NOTE: Authority cited: Sections 19034 and 19089, Business and Professions Code. Reference: Sections 19080, 19081, 19088 and 19150, Business and Professions Code.

HISTORY

1. Amendment filed 5-19-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
4. New section filed 3-16-2000; operative 4-12-2000 (Register 2000, No. 11).

§ 1192.1. Plumage Products — Comply with Federal Standards.

HISTORY

1. New section filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
2. Repealer filed 3-16-2000; operative 4-12-2000 (Register 2000, No. 11).

§ 1193. Compositional Requirements.

(a) Down Products. Any industry product labeled as "down," "duck down," or "goose down" shall contain a minimum of 75% down and plumules. The "DOWN" label is a qualified general label and shall include in parentheses the minimum percentage of down in the product. The minimum percentage stated on the label must be at least 75%.

The remainder normally consists of waterfowl feathers and small amounts of other components. If these other components exceed the following maximums, the percentage of such components must be labeled.

Down Fiber	maximum	10%
Feather Fiber	maximum	10%
Chopped, Damaged & Crushed Feathers	maximum	2%
Landfowl Feathers	maximum	2%
Residue	maximum	2%
Quill Feathers are not permitted.		

(b) Down and Feather Blended Products. These products require qualified general labels that shall include in parentheses the actual percentage of components.

(1) The term "DOWN AND FEATHERS" may be used to designate any plumage product containing between 50% and 74% down and plumules. The actual percentages must be stated on the label.

(2) The term "FEATHERS AND DOWN" may be used to designate any plumage product containing between 5% and 49% down and plumes. The actual percentages must be stated on the label.

(3) The remainder of components in down and feather blended products normally consists of waterfowl feathers or down and small amounts of other components. If these other components exceed the following maximums, the percentage of such components must be labeled.

Down Fiber	maximum	10%
Feather Fiber	maximum	10%
Chopped, Damaged & Crushed Feathers	maximum	2%
Landfowl Feathers	maximum	2%
Residue	maximum	2%
Quill Feathers are not permitted		

(c) Waterfowl Feather Products. Any industry product labeled as "waterfowl feathers," "duck feathers," "goose feathers" shall contain a minimum of 80% waterfowl feathers.

The remainder normally consists of waterfowl feathers and small amounts of other components. If these other components exceed the following maximums, the percentage of such components must be labeled.

Down	maximum	20%
Down Fiber	maximum	10%
Chopped, Damaged & Crushed Feathers	maximum	7%
Feather Fiber	maximum	5%
Landfowl Feathers	maximum	5%
Residue	maximum	2%
Quill Feathers are not permitted		

(d) Other Plumage Products. Plumage products which do not meet requirements for any of the above categories must be labeled accurately with each component listed separately.

(e) Percentage Claims. A plumage product should not be designated as "100% Down," "All Down," "Pure Down" or by other similar terms unless, in fact, contains 100% down.

(f) Tolerances. No tolerance is allowed for the minimum percentage of down as stated in the above listed categories.

(g) Species. The specie of waterfowl plumage need not be designated, but when designated, the product shall contain a minimum of 90% of such plumage.

(h) Cleanliness. All plumage products must have an oxygen number not exceeding 20 grams of oxygen per 100,000 grams of sample.

(i) Adulteration. The maximum content for certain components listed above are not to be construed to permit intentional adulteration of plumage products.

(j) Labels. Every plumage filled product must contain a law label in accordance with Article 2, Section 1125 & 1126 of the California Code of Regulations.

NOTE: Authority cited: Sections 19034 and 19089, Business and Professions Code. Reference: Sections 19080, 19081, 19088 and 19150, Business and Professions Code.

HISTORY

1. Amendments filed 12-6-66; effective thirtieth day thereafter (Register 66, No. 43).
2. Amendment filed 1-10-69; effective thirtieth day thereafter (Register 69, No. 2).

3. Amendment filed 5-19-74; effective thirtieth day thereafter (Register 74, No. 19).
4. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
5. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
6. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
7. New section filed 3-16-2000; operative 4-12-2000 (Register 2000, No. 11).

§ 1194. Tolerances.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1195. Cleanliness.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1196. Additional Terms Not Prohibited.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1197. Application of This Article.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

Article 6. Wool and Hair Regulations

§ 1209. "Wool."

Shall mean the fleece of sheep which has been scoured and carbonized. It shall be free of kemp and vegetable matter.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New section filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Renumbering of Article 7 (Sections 1210, 11, 1215-1218) to Article 6 (section 1209-1211) filed 5-10-74 (Register 74, No. 19).
3. Amendment of Article heading and NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1210. "Hair."

Shall mean the coarse filamentous epidermal outgrowth of such mammals as horses, cattle, hogs and goats.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

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HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No.50).

§ 1211. Classification of Hair.

Hair shall be classified and labeled as follows:

- "Horse Tail Hair"
- "Horse Mane Hair"
- "Hog Hair"
- "Cattle Tail Hair"
- "Cattle Hide Hair"
- "Goat Hair"

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No.50).

§ 1212. Single Grades of Hair.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1213. Hair Percentages.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1214. Hair and Fiber Mixtures.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1215. Color of Hair.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1216. Curled Hair.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1217. Uncurled Hair.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

§ 1218. Labeling Examples.

HISTORY

1. Repealer filed 4-20-54; effective thirtieth day thereafter (Register 54, No. 9).

Article 7. Man-Made Fiber Regulations

§ 1236. Labeling Requirements.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Repealer of Article 8 (Sections 1230 and 1231) and renumbering of Article 8.5 (Sections 1236-1239.3, not consecutive) to Article 7 (Section 1238) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1237. Definitions.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1237.1. Optional Labeling.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1238. Kinds of Man-Made Fibers.

The following terms shall be stated on the law label when applicable in addition to other labeling nomenclature required by these regulations for defining the chemical composition of manufactured fibers.

(a) "Acetate": a manufactured fiber in which the fiber-forming substance is cellulose acetate. Where not less than 92% of the hydroxyl

groups are acetylated, the term triacetate may be used as a generic description of the fiber.

(b) "Acrylic": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of acrylonitrile units ($-\text{CH}_2-\text{CH}-$).



(c) "Azlon": a manufactured fiber in which the fiber-forming substance is composed of any regenerated naturally occurring proteins.

(d) "Glass": a manufactured fiber in which the fiber-forming substance is glass.

(e) "Metallic": a manufactured fiber composed of metal, plastic-coated metal, metal coated plastic or a core completely covered by metal.

(f) "Modacrylic": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of less than 85% but at least 35% by weight of acrylonitrile units ($-\text{CH}_2-\text{CH}-$)



(g) "Nylon": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polyamide having recurring amide groups ($-\text{C}-\text{NH}-$) as any integral part of the polymer chain.



(h) "Nitrile": a manufactured fiber containing at least 85% of a long chain polymer of vinylidene dinitrile ($\text{CH}_2-\text{C}(\text{CN})_2-$) where the vinylidene dinitrile content is no less than every other unit in the polymer chain.

(i) "Olefin": a manufactured fiber in which the fiber-forming substance in any long chain synthetic polymer composed of at least 85% by weight of ethylene, propylene or other olefin units.

(j) "Polyester": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of any ester of a dihydric alcohol and terephthalic acid ($\text{p}-\text{HOOC}-\text{C}_6\text{H}_4-\text{COOH}-$).

(k) "Rayon": a manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15% of the hydrogen of the hydroxyl groups.

(l) "Saran": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer comprised of at least 80% by weight of vinylidene chloride units ($-\text{CH}_2\text{CCL}_2-$).

(m) "Spandex": a manufactured fiber in which the fiber-forming substance is a long chain synthetic polymer composed of at least 85% of segmented polyurethane.

(n) "Vinyl": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 50% by weight of vinyl alcohol units ($-\text{CH}_2-\text{CHOH}-$), and in which the total of the vinyl alcohol units and any one or more of the various acetal units is at least 85% by weight of the fiber.

(o) "Vinyon": a manufactured fiber in which the fiber-forming substance is any long chain synthetic polymer composed of at least 85% by weight of vinyl chloride units ($-\text{CH}_2-\text{CHCL}-$).

(p) "Rubber": a manufactured fiber in which the fiber-forming substance is comprised of natural or synthetic rubber, including the following categories:

(1) A manufactured fiber in which the fiber-forming substance is a hydrocarbon such as natural rubber, polyisoprene, polybutadiene, copolymers of dienes and hydrocarbons, or amorphous (non-crystalline) polyolefins.

(2) A manufactured fiber in which the fiber-forming substance is a copolymer of acrylonitrile and diene (such as butadiene) composed of not more than 50% but at least 10% by weight of acrylonitrile units ($-\text{CH}_2-\text{CH}-$). The term "laetrite" may be used as a generic description



for fibers falling within this category.

(3) A manufactured fiber in which the fiber-forming substance is a polychloroprene or a copolymer of chlorophene in which at least 35% by weight of the fiber-forming substance is composed of chloroprene units ($-\text{CH}_2-\text{C}-\text{CH}-\text{CH}_2-$)



NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New subsection (p) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1239. Names of Man-Made Fibers.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1239.1. Additional Terms Not Prohibited.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1239.2. Application of This Article.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1239.3. Deviation from Percentages Stated.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

Article 8. Miscellaneous Vegetable Fiber Regulations

§ 1240. Labeling Requirements.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Renumbering of Article 9 (Sections 1240-1246) to Article 8 (section 1267) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1241. Optional Labeling. Blends.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1242. Terms and Definitions.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1243. Maximum Deviations.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1244. Additional Terms Not Prohibited.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1245. Application of This Article.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1246. Names of Vegetable Fibers.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

§ 1247. Terms and Definitions.

The following terms shall be stated on the law label when applicable in addition to other labeling nomenclature required by these regulations for defining the chemical composition of natural fibers.

(a) "Buckwheat hulls" shall mean the outer shell covering of the buckwheat seed (fagopyrum).

(b) "Cellulose Fiber" shall mean wood or other vegetable growth reduced to a fibrous state.

(c) "Coco Fiber or Coir Fiber" shall mean the stiff elastic fiber obtained from the outer husk of the coconut.

(d) "Corrugated Fiber Board" shall mean the thick coarse paper, corrugated to give it elasticity.

(e) "Excelsior" shall mean shredded threadlike wood fibers, but shall not include waste products such as shavings, sawdust, or similar waste.

(f) "Flax Fiber" shall mean the fiber derived from the plant of the genus *Lignum Usitatissimum* raised primarily for fiber.

(g) "Jute Fiber" shall mean the fiber derived from several species of the *Corchorus* plant.

(h) "Kapok" shall mean the mass of fibers investing the seed of the kapok tree (*Ceiba Pentandra*).

(i) "Milkweed Fiber" shall mean the surface fiber from the inside of the seed pods of milkweed plants (*Asclepias*).

(j) "Moss" shall mean the processed fibers of epiphytic plants forming pendant tufts from trees.

(k) "Palm Fiber" shall mean the fibrous material obtained from the leaf of a palm, palmetto, or palmyra tree.

(l) "Sisal Fiber" shall mean the leaf fiber derived from the *Agave Sisalana* and similar species of *Agaves*.

(m) "Tula Fiber" shall mean the fiber derived from the *Tula* Istle and similar species of *Agaves*.

NOTE: Authority cited: Section 19034 and 19089, Business and Professions Code. Reference: Section 19080, 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New section filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

Article 9. Sanitization Regulations

§ 1250. Removal of Red Tags After Sterilization.

NOTE: Authority cited: Section 19034 and 19204, Business and Professions Code. Reference: Section 19121, 19202, 19203, and 19204, Business and Professions Code.

HISTORY

1. Amendment filed 6-13-75; effective thirtieth day thereafter (Register 75, No. 19). For prior history, Register 74, No. 19.
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
4. Amendment of article 9 heading filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
5. Amendment of article 9 heading filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1251. Methods of Sanitization.

(a) Any method of sanitization not provided for herein shall be submitted to the Bureau for testing and consultation with the State Department of Health Services before adoption or use.

(b) Unless otherwise specifically provided for, the chief of the bureau shall determine the method to be employed in the sanitization of any article or material subject to the provisions of the act and these regulations.

(c) Secondhand (used) fabrics shall not contain any of the following adulterants: visible soiling or stains, extraneous materials, sludge, oil, grease, fat, filth, excreta, skin, epidermis, blood, urine, feces, disagreeable odors or other contamination.

(d) Secondhand (used) materials which are contaminated shall be sanitized as set forth in Sections 1252 or 1253 of these regulations.

(e) Mattresses containing a porous material or fabric may be sanitized by using the dry heat method in Section 1252 or the chemical disinfectant, Steri-fab, as set forth in Section 1253.

(f) Baled filling materials shall not be sanitized while still in the bale.

(g) Detachable mattresses and pads within hide-a-beds shall be removed from such articles and sanitized.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19120, 19121, 19123.6 and 19124, Business and Professions Code.

HISTORY

1. New subsection (b) filed 7-1-68; effective thirtieth day thereafter (Register 68, No. 25).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment of subsection (a) filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
4. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
5. Repealer and new section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1252. Dry Heat Method.

(a) The dry heat method may be used to sanitize mattresses, box springs, or similar items covered in whole by a porous material or fabric.

(b) In sanitizing by the dry heat method a temperature of 230 degrees F. shall be maintained in all parts of an approved chamber for such a period of time as may be necessary for sanitization, which shall in no case be less than one hour and 15 minutes. All chambers shall be equipped with racks or devices and the articles to be sanitized shall be so placed therein so that complete circulation of heat and gases around every article being sanitized shall be attained. All chambers shall be insulated sufficiently to insure maintenance of temperature and shall be tightly sealed to prevent any leakage of gases. A thermostat shall be connected with the heating device to provide and maintain a reasonably uniform temperature at 230 degrees F. + (plus or minus) 5 degrees.

(c) The sanitization conditions of 230 degrees F. for not less than 1 hour and 15 minutes may be changed to conditions of 205 degrees F. for not less than 1 hour and 30 minutes for foam products which suffer physical degradation at the 230 degrees F. temperature.

(d) A suitable recording device approved by the bureau shall be installed and maintained to record the time and temperature prevailing during the entire operation.

(e) Each chamber in which the dry heat method of sanitization is performed shall be equipped with a fresh air inlet and an exhaust fan and duct discharging to the outside air. To clear the chamber of gases and fumes upon completion of the sanitization cycle, the fresh air inlet to the chamber shall be opened and the exhaust fan operated for 30 minutes or until all fumes have been exhausted through the discharge duct. The sanitized articles may then be removed from the chamber.

(f) When more than one sanitization chamber is operated on any premises by the same person, each chamber shall be permanently identified by a letter, beginning with "A" and proceeding in alphabetical order.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19122, 19124 and 19127.6, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
3. Repealer and new section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1253. Chemical Disinfection Method.

(a) In sanitizing by the chemical method only those products registered with the State of California, Environmental Protection Agency, Department of Pesticide Regulation, which are specified for use as disinfectants of articles of bedding shall be used. The product shall clearly state, on the label or on printed matter included in each container or package, detailed instructions for its use in disinfecting articles of bedding.

(b) Mattresses, box springs or similar articles covered in whole by an impervious material, such as plastic, may be sanitized by damp cleaning with a chemical disinfectant registered with the State of California, Environmental Protection Agency, Department of Pesticide Regulation, which is specified for use as a disinfectant of articles of bedding.

(c) Mattresses, box springs or similar articles covered by a porous material or fabric may be sanitized with the chemical disinfectant, Steri-fab registered with the State of California, Environmental Protection Agency, Department of Pesticide Regulation for use as a disinfectant.

(1) Application of Steri-fab shall be in accordance with the chemical disinfectant manufacturer's specification in order to provide adequate coverage by thoroughly spraying over all surfaces so that complete disinfection is achieved.

(2) The Steri-fab disinfectant shall be well mixed throughout the application to ensure adequate dispersion of the tracer chemical which can be detected on the mattress cover in the dry state by use of a hand held ultraviolet (black) light under magnification.

(3) A continuous action pressure sprayer shall be used to apply the disinfectant.

(4) Appropriate and effective safety precautions shall be followed in the use, storage, application and disposal of the disinfectant.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Editorial correction renumbering former HISTORY 2 to HISTORY 1 (Register 96, No. 30).
3. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
4. Repealer and new section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1254. Lot.

A "lot" consists of all of the articles sanitized in (1) one chamber during one operation, or (2) by the chemical disinfection method during one (1) calendar day. Lots shall be numbered consecutively.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124 and 19127.6, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
3. Repealer and new section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1255. Records.

(a) Records shall be kept in a bound *log* book and shall include:

- (1) the date of sanitization;
- (2) the chamber letter, if any;
- (3) the lot numbers in consecutive order;
- (4) the name of the person *and or* company for whom sanitized.

(b) The numbers and types of items sanitized must be recorded.

(c) Damaged labels shall be entered into the *bound log* book as "Damaged" and maintained for inspection.

(d) *Records kept in the bound log book must be retained on the business premises for not less than 5 years.*

(d) The following is a sample format for recording required information.

Dry Heat Sanitation Record Log (example)

Date	Oven No.	Lot No.	Label Nos.	Articles	Company Name
1/7/98	A	1	1000-1011	5 mattresses 5 boxsprings	Salvation Army
1/7/98	A	2	1012-1022	5 mattresses 5 boxsprings	ABC Thrift
1/7/98	A	1	1010	VOID	VOID

Chemical Sanitation Record Log (example)

Date	Chemical	Lot No.	Label Nos.	Articles	Company Name
1/7/98	Steri-Fab	2	1023-1034	5 mattresses 5 boxsprings	Salvation Army
1/7/98	Steri-Fab	3	1034-1040	3 mattresses 3 boxsprings	Salvation Army
1/7/98			1033	VOID	VOID

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19124 and 19127.6, Business and Professions Code.

HISTORY

1. New section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34). For prior history, see Register 96, No. 30.

§ 1256. Official Sanitization Label Requirements.

- (a) All articles of bedding or bulk filling materials which have undergone an approved method of sanitization shall have a sanitization label firmly attached to the item in such an area so as to be easily and readily discernable. Sanitization labels shall be affixed to the item sanitized with silicate of soda or any type of adhesive approved by the Bureau.
- (b) Sanitization labels shall be constructed of erasure-proof paper and shall be of a grade that will not change color on application of adhesive.
- (c) Color of label shall be yellow and the printing shall be in black ink.

<p>UNDER PENALTY OF LAW THIS TAG SHALL NOT BE REMOVED EXCEPT BY THE CONSUMER</p>	
<p>Certification is made that this <u>SECONDHAND (USED) ARTICLE</u> HAS BEEN SANITIZED</p>	
<p>By a process approved pursuant to Division 8, Chapter 3, Article 6 of the Business and Professions Code. (The Home Furnishings and Thermal Insulation Act)</p>	
Lot No. Article Method	Label No.
Date	
Space for Name of Sanitizing Plant	Registry No.

(YELLOW LABEL)

← The words "SECONDHAND (USED) ARTICLE" and "SANITIZED" shall be a minimum of 3/8" in height in capital letters.

← Sanitization labels shall be affixed to the article sanitized with silicate of soda or any type of approved adhesives.

NOTE: Authority cited: Sections 19034 and 19127, Business and Professions Code. Reference: Sections 19124.5 and 19127, Business and Professions Code.

HISTORY

1. Amendment filed 8-17-66; effective thirtieth day thereafter (Register 66, No. 27).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment of section and form filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
4. Repealer and new section filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1257. Storage of Formaldehyde.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

(d) Statements and headings on a sanitization label shall be as follows:

- (1) "Under penalty of law this tag shall not be removed except by the consumer."
- (2) "Certification is made that this secondhand article has been sanitized by a process approved pursuant to Division 8, Chapter 3, Article 6, of the Business and Professions Code" (The Home Furnishings and Thermal Insulation Act).
- (3) Lot number in which the article was sanitized.
- (4) Sanitization label number. (Every label shall be numbered, the numbers shall run consecutively, and no duplicate numbers shall be used).
- (5) Name of the article or filling material sanitized.
- (6) Method must be printed or stamped: dry heat or chemical disinfectant.
- (7) Date sanitized.
- (8) Name and address of sanitizing plant.
- (9) Registry number assigned to the sanitizing plant by the Bureau.
- (e) Size of sanitization label and type of printing.
 - (1) The minimum size of labels shall be 3 x 3 inches.
 - (2) The words "Secondhand Article" and "Sanitized" shall be a minimum of 3/8" in height in capital letters.
 - (3) All printing shall be in English.
 - (f) Form of Label.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1258. Method of Sanitization.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19120, 19123.6 and 19124, Business and Professions Code.

HISTORY

1. Amendment filed 8-17-66; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

4. Amendment of section heading, section and NOTE filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
5. Repealer filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1259. Vacuum Chemical Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1260. Dry Heat Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. Amendment filed 7-31-56; effective thirtieth day thereafter (Register 74, No. 19).
2. Amendment filed 5-1-59; designated as effective June 1, 1959 (Register 59, No. 7).
3. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. New subsection (d) filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
5. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
6. Repealer filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1261. Feather and Down Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1262. Wet Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1263. Steam Under Pressure Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1264. Chemical Method.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. Repealer of former Section 1264 and renumbering and amendment of former Section 1266.1 to Section 1265 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Register 81, No. 50; 68, No. 25; and 66, No. 27.
2. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
3. Repealer filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1265. Disinfecting.

NOTE: Authorized cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. Repealer of Section 1265 and renumbering and amendment of former Section 1266.1 to Section 1265 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 68, No. 25).
2. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
3. Repealer filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1266. Official Sanitization Label Requirements.

NOTE: Authority cited: Sections 19034 and 19127, Business and Professions Code. Reference: Sections 19124.5 and 19127, Business and Professions Code.

HISTORY

1. Renumbering of former Section 1266 to Section 1264, and renumbering and amendment of former Section 1267 to Section 1266 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50; 68, No. 25; and 66, No. 27.
2. Amendment of section heading, section and form filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
3. Repealer filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1266.1. Disinfecting.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19124, Business and Professions Code.

HISTORY

1. New section filed 7-1-68; effective thirtieth day thereafter (Register 68, No. 25).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Renumbering and amendment to Section 1265 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1267. Removal of Red Tags After Sterilization.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19121, 19202, 19203, and 19204, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1267 to Section 1266, and new Section 1267 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50; 68, No. 25; and 66, No. 27.
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

Article 10. False or Misleading Advertising

§ 1300. Application of Article.

For the purposes of Sections 19150 and 19210 of the act, false or misleading advertising includes but is not limited to advertising, within the meaning of Section 17500 et seq. of the Business and Professions Code, which violates any provision of this article.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19088 and 19150, Business and Professions Code.

HISTORY

1. New section filed 12-8-52; effective thirtieth day thereafter (Register 30, No. 5).
2. Repealer of Article 11 and new Article 11 (Sections 1300 through 1318) filed 5-1-59; designated effective June 1, 1959 (Register 59, No. 7).
3. Renumbering of Article 11 (Sections 1300-1318) to Article 10 (Sections 1300-1318) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
4. Editorial correction of NOTE (Register 79, No. 29).
5. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
6. Editorial correction filed 1-6-83 (Register 83, No. 2).

§ 1300.1. Misleading, Defined.

In determining whether advertising is false or misleading it shall be considered in its entirety and as it would be read by the persons to whom it is designed to appeal. It shall be considered to be misleading if it tends to deceive the public or impose upon credulous or ignorant persons.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19150 and 19210, Business and Professions Code.

HISTORY

1. New section filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1301. Former Price, Defined.

The term "former price" as used in Section 17501 of the Business and Professions Code and in this article includes but is not limited to the following words and phrases when used in connection with advertised prices; "formerly—," "regularly—," "usually—," "originally—," "reduced from _____," "was _____ now _____," "_____% off."

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17501, 19150 and 19210, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1302. Former Price of Same Article.

(a) No price, whether expressed in words, phrases, price figures, symbols, fractions, percentages, or otherwise, shall be advertised as the former price of an article unless such advertised former price applies to the article advertised.

(b) Except as provided in subdivision (c) of this section, the advertised former price must be the prevailing market price of the article in the locality wherein the advertisement is published, within three months immediately preceding the publication of the advertisement.

(c) If the advertised former price exceeds the three months' period as set forth in subdivision (b) above, the date when such former price did prevail must be clearly, exactly and conspicuously stated in the advertisement.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17501, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1303. Fictitious Markup.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17508, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1304. Comparison with Prices of Other Merchandise.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17508, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1304.1. Bait and Switch Advertising.

The term "Bait and Switch Advertising" means an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. The purpose thereof is to switch consumers from buying the advertised merchandise, in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser. Bait and switch advertising of any article subject to the provisions of the Home Furnishings Act shall be deemed to be false and misleading. Practices which shall be considered as evidence of unlawful bait and switch advertising include but are not limited to the following:

- (a) Refusal to show the product advertised;
- (b) Disparagement in any respect of the advertised product or the terms of sale;
- (c) Failure to have available at all outlets listed in the advertisement sufficient quantities of the product to meet reasonable anticipated demands;
- (d) Refusal to take orders for the advertised merchandise for delivery within a reasonable period;
- (e) Showing or demonstrating a defective product unusable or impractical for the purposes implied in the advertisement;
- (f) Accepting a deposit for the product and then switching the purchaser to a higher priced item;

(g) Failure to make deliveries within a reasonable time or to make a refund.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19088, 19150 and 19210, Business and Professions Code.

HISTORY

1. New section filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1305. Special Sale.

No advertisement shall represent that because of an unusual business event in the course of business or unusual manner of doing business or for any other reason an article is offered for sale at a savings in price unless such advertisement is in all respects true and not misleading. If an advertisement represents that the sale is being held for reasons relating to transactions which have already occurred or orders which have already been placed, the articles offered at sale prices are restricted to those articles on the premises, in the warehouse or in process from previous orders the date the sale is announced. Sales of this type include, but are not limited to, liquidation sales, inventory sales and overstock sales.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 17501, 19088, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1306. Purchase of Additional Merchandise.

No advertisement shall represent that an article is offered for sale at a saving when the offer is conditioned upon the purchase of additional merchandise unless: (1) the terms and conditions imposed are clearly and correctly disclosed in immediate conjunction with the offer, and (2) the price charged for the additional merchandise required to be purchased is not more than the prevailing market price for the merchandise.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 17501, 19088, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1307. Pre-Ticketing.

No article shall be advertised by means of a "pre-ticketed" price, whether such price is used alone or in conjunction with descriptive terminology and whether such price appears on tags or labels affixed to the article, or in material such as display cards which are used with the article at the point of sale, or otherwise. A "pre-ticketed price," as used in this section, is a price which is in excess of the prevailing market price of the article to which it refers.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 17501, 19088, 19150 and 19210, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1308. Imperfects, Irregulars, Seconds or Damaged.

No article which is imperfect, irregular, a second or damaged shall be advertised in any manner which represents, or implies that the article is free from defects or is of the same grade or quality of the article as usually and customarily offered for sale in the regular course of business.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17531, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1309. Factory Outlet.

"Factory Outlet," "Factory Store," "Factory Showroom," or terms of similar import mean an establishment other than the factory where articles manufactured by the factory are sold; such terms shall not be used in any advertisement, sign, or by any other device or printed material unless the establishment is owned in its entirety by the factory and the factory is responsible for its operation, function, and pay of the employees and unless a minimum of 51 percent in dollar volume of the articles of furniture and bedding sold or offered for sale are manufactured by the factory.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 17501, 17505, 19088, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1309.1. Factory Sales.

The term "Factory Sale" or terms of similar import shall not be used in any advertisement unless such advertisement is in connection with a sale of articles held in an establishment appropriated to the manufacture of those articles, or in connection with a sale conducted by an establishment as defined in Section 1309 of these regulations.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17501, 17505, 19150 and 19210, Business and Professions Code.

HISTORY

1. New section filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1309.2. Factory Direct.

"Factory Direct," "Factory to You," "Manufacturer to You," "Direct to You" and terms of similar import mean the sale of articles direct from the factory to the consumer; such terms shall not be used in any advertisement unless the transaction is between the two parties, billing of the articles is made by the factory direct to the consumer, and payment is made by the consumer direct to the factory.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 17505, 19150 and 19210, Business and Professions Code.

HISTORY

1. New section filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1310. Custom Made.

No article shall be advertised by means of the terms "custom made," "custom-built," "custom-grade," "made-to-order," or any term of similar import, unless the article has been or will be made to the order and specifications of a particular ultimate user. An article does not meet the

requirements of this section merely because the customer has a choice of coverings.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 19010.1, 19150 and 19210, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1311. Labor Free.

No advertisement shall represent or imply by means of the term "Labor Free" or any term of similar import that services with respect to an article will be performed without charge when a charge is made for such services in any manner whatever, including but not limited to an increase in the usual charge for the article or any of the material used.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1312. Liquidation.

No advertisement shall represent or imply, by means of the term "Going Out of Business," "Selling Out," "Closing Out," "Liquidating," or any term of similar import, that the advertiser is going out of business, or is disposing of all or a portion of a stock of merchandise, unless such representation is true and is not in any respect misleading as to the advertiser's discontinuing business or as to the types and quantity of merchandise intended to be included, and unless the articles offered for sale, and to be sold, during the sale are restricted to those articles on the premises or in transit from previous orders the date the sale is announced. A mere change of business location, business name or type of business entity does not constitute going out of business within the meaning of this section.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 17500, 19150 and 19210, Business and Professions Code.

HISTORY

1. Amendment filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1313. Guarantees and Warranties.

For the purpose of the Home Furnishings Act and of these regulations, the terms "guarantee" and "warranty" have like meanings. No advertisement shall contain any false or misleading representation concerning the nature, extent, duration, terms or cost of a guarantee of an article subject to the provisions of the Home Furnishings Act.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19088, 19150, 19152 and 19210, Business and Professions Code.

HISTORY

1. Repealer of former Section 1313 and renumbering and amendment of former Section 1315 to Section 1313 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 70, No. 32.

§ 1314. Disclosure of Guarantee.

All guarantees shall be in writing and shall be displayed or a copy thereof delivered to the customer prior to the sale of any article of furniture or bedding represented to be covered by a guarantee. A guarantee shall be deemed false and misleading unless it conspicuously and clearly discloses in writing the following:

(a) The nature and extent of the guarantee including a description of all parts, characteristics or properties covered by or excluded from the guarantee, the duration of the guarantee, and what must be done by a claimant before the guarantor will fulfill his obligation (such as returning the product and paying service or labor charges).

(b) The manner in which the guarantor will perform. The guarantee shall state all conditions and limitations, and exactly what the guarantor will do under the guarantee, such as repair, replacement or refund. If the guarantor or recipient of the guarantee has an option as to what may satisfy the guarantee, this must be clearly stated.

(c) The guarantor's identity and address shall be clearly revealed in any documents evidencing the guarantee.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19150, 19152 and 19210, Business and Professions Code.

HISTORY

1. Repealer of former Section 1314 and renumbering of former Section 1315.1 to Section 1314 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 70, No. 32.

§ 1315. Pro-Rata Guarantee.

Any guarantee or any advertisement of a guarantee which provides for adjustment on a pro-rata basis shall be deemed false and misleading unless the guarantee and/or the advertisement conspicuously and clearly discloses this fact and the basis on which the guarantee will be prorated, e.g., the time the product has been used and in what manner the guarantor will perform. If adjustments are based on a price other than that paid by the purchaser, clear disclosure must be made of the amount.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19150, 19152 and 19210, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1315 to Section 1313, and renumbering and amendment of former Section 1315.2 to Section 1315 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 70, No. 32.

§ 1315.1. Disclosure of Guarantee.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19150, 19152 and 19210, Business and Professions Code.

HISTORY

1. New section filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Renumbering to Section 1314 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1315.2. Pro-Rata Guarantee.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 17500, 19150, 19152 and 19210, Business and Professions Code.

HISTORY

1. New section filed 8-5-70; effective thirtieth day thereafter (Register 70, No. 32).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Renumbering and amendment to Section 1315 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1316. Secondhand Merchandise.

No article which is secondhand, as defined in the act, shall be advertised in any manner which represents or implies that the article is new.

NOTE: Authority cited: Sections 19034 and 19088, Business and Professions Code. Reference: Sections 19008, 19008.5, 19008.6 and 19150, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

§ 1317. Misleading, Defined.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19150 and 19210, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1318. Knowledge.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).

Article 11. Latex Foam Rubber and Filling Regulations

§ 1327. Labeling Requirements.

HISTORY

1. New Article 14 (Sections 1327 through 1332) filed 8-17-66; effective thirtieth day thereafter (Register 66, No. 27).
2. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
3. Article 14 (Sections 1327-1332) renumbered to Article 11 (Sections 1329-1332) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
4. Amendment of article 11 heading filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1328. Official Law Label Requirements.

HISTORY

1. Repealer filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19). For prior history, see Register 68, No. 25.

§ 1329. Definitions and Grades of Latex Foam.

(a) Latex foam is used as a filling material in various bedding products including mattresses, futons, and bed pillows. The term "Latex Foam" or "Latex Foam Rubber" may be used interchangeably and shall mean filling material made from synthetic latex foam (polychloroprene), natural latex foam, reclaimed rubber or rubber-like materials or a mixture of the above. The cured foam shall consist of a network of open or inter-connecting cells uniform in size and character. Latex foam may be used as a molded fill containing an outer skin or as slabstock fill (sheets, strips or other specific shapes) cut to specific sizes and containing no skin. Latex foam rubbers may be either cored or solid.

(b) The term "first quality" may be used in conjunction with the terms latex foam or latex foam rubber provided the foam does not exceed a minor level of physical defects such as a surface or internal voids of up to one inch, loose skin up to 16 square inches, foreign materials up to 1/8 inch in diameter, shrinkage marks up to 1/8 inch in depth, pock marks or pour patterns up to 1/8 inch in depth.

(c) Irregular Latex Foam or Irregular Latex Foam Rubber shall mean any foam which has a moderate level of physical defects, such as surface or internal voids 1 to 3 inches deep, 16 to 32 square inches of loose skin, foreign materials 1/8 to 1/4 inch in diameter, shrinkage marks between 1/8 and 1/4 inch in depth, pock marks or pour patterns 1/8 to 1/4 inch in depth.

Labeling example: Irregular Latex Foam Rubber

(d) Scrap Latex Foam or Scrap Latex Foam Rubber shall mean any foam which contains an excessive amount of physical defects such as surface or internal voids exceeding 3 inches, loose skin over 32 square inches, foreign materials over 1/4 inch in diameter, shrinkage marks over 1/4 inch in depth, pock marks or pour patterns over 1/4 inch in depth, and also means any latex foam product consisting of loose pieces of latex foam or assembled loose pieces of latex foam (excluding assembly of the molded half sections).

NOTE: Authority cited: Sections 19034, 19089 and 19150, Business and Professions Code. Reference: Sections 19081, 19085, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Amendment of subsections (b), (d) and (f) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1330. Physical Requirements of Latex Foam.

Any latex foam which does not meet any one of the following minimum physical requirements shall be designated on the law label as "Scrap Latex Foam" or "Scrap Latex Foam Rubber."

(a) Adhesive Bond. The bond shall be stronger than the adjoining foam when separated by hand. The seam shall not be noticeably hard when felt with the palm of the hand.

(b) The latex foam shall be constructed of a single piece or, if used to construct a pillow insert, two molded half sections. Modifications which are designed to enhance a special feature of the product are acceptable when such modifications have been approved by the Bureau.

NOTE: Authority cited: Sections 19034, 19089 and 19150, Business and Professions Code. Reference: Sections 19081, 19085, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. Amendment filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1331. Material.

NOTE: Authority cited: Sections 19034, 19089 and 19150, Business and Professions Code. Reference: Sections 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1332. Construction and Workmanship.

NOTE: Authority cited: Sections 19034, 19089 and 19150, Business and Professions Code. Reference: Sections 19081, 19088, 19089 and 19150, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

Article 12. Liquid-Filled Bedding Regulations

§ 1350. Liquid-Filled Bedding Products—Definitions.

NOTE: Authority cited: Section 19034 and 19155, Business and Professions Code. Reference: Sections 19089 and 19155, Business and Professions Code.

HISTORY

1. New Article 18 (Sections 1350 through 1360) filed 11-30-72; designated effective 1-1-73 (Register 72, No. 49).
2. Article 18 (Sections 1350-1360) renumbered to Article 12 (Sections 1350-1360) and amendment of Section 1350 filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19). For history of former Article 12, see Register 66, No. 27, 68, No. 25.
3. Editorial correction of NOTE (Register 79, No. 29).
4. Amendment of NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
5. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
6. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
7. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1350.1. Waterbed.

HISTORY

1. New section filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Renumbering to Section 1350(b) filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1351. Official Law Label.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19081, 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1351 to Section 1350(d), and renumbering and amendment of former Section 1354 to Section 1351 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 74, No. 19.

2. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).

3. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1352. Form of Law Label.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19081, 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1352 to Section 1350(e), and renumbering and amendment of former Section 1355 to Section 1352 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 74, No. 19.
2. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1353. Information Label.

NOTE: Authority cited: Sections 19034, 19081 and 19155, Business and Professions Code. Reference: Sections 19081, 19089 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1353 to Section 1350(f), and new Section 1353 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Register 74, No. 19.
2. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1354. Water Mattress.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1354 to Section 1351, and renumbering and amendment of former Section 1356 to Section 1354 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 74, No. 19.
2. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1355. Waterbed Liners.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1355 to Section 1352, and renumbering and amendment of former Section 1357 to Section 1355 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50, and 74, No. 19.
2. New subsections (d) and (e) filed 9-20-84; effective thirtieth day thereafter (Register 84, No. 38).
3. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
4. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1356. Waterbed Frames.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1356 to Section 1354, and renumbering and amendment of former Section 1358 to Section 1356 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 74, No. 19.
2. Amendment filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1356.1. Waterbed Frame Additions.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. New section filed 8-24-89; operative 9-23-89 (Register 89, No. 36).
2. Change without regulatory effect repealing section filed 10-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1356.2. Waterbed Deck.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. New section filed 8–24–89; operative 9–23–89 (Register 89, No. 36).
2. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1356.3. Waterbed Riser.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. New section filed 8–24–89; operative 9–23–89 (Register 89, No. 36).
2. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1357. Waterbed Heaters.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19081, 19088, 19089, 19089.3 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1357 to Section 1355, and renumbering and amendment of former Section 1359 to Section 1357 filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50 and 74, No. 19.
2. Amendment filed 8–24–89; operative 9–23–89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1358. Quality Control.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089 and 19155, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1358 to Section 1356, and renumbering and amendment of former Section 1359.1 to Section 1358 filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50, and 74, No. 19.
2. Amendment filed 8–24–89; operative 9–23–89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1359. Manufacturing Facilities.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19200, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1359 to Section 1357, and renumbering and amendment of former Section 1359.2 to Section 1359 filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Registers 81, No. 50, and 74, No. 19.
2. Amendment filed 8–24–89; operative 9–23–89 (Register 89, No. 36).
3. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

§ 1359.1. Quality Control.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Sections 19089 and 19155, Business and Professions Code.

HISTORY

1. New section filed 5–10–74; effective thirtieth day thereafter (Register 74, No. 1).
2. New NOTE filed 12–10–81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Renumbering and amendment to Section 1358 filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1359.2. Manufacturing Facilities.

NOTE: Authority cited: Sections 19034 and 19200, Business and Professions Code. Reference: Sections 19155 and 19200, Business and Professions Code.

HISTORY

1. New section filed 5–10–74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12–10–81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Renumbering and amendment to Section 1359 filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1360. Required Consumer Information.

NOTE: Authority cited: Sections 19034 and 19155, Business and Professions Code. Reference: Section 19155, Business and Professions Code.

HISTORY

1. Amendment filed 5–10–74; effective thirtieth day thereafter (Register 74, No. 19).
2. New NOTE filed 12–10–81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42).
4. Change without regulatory effect repealing section filed 10–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 43).

Article 13. Flammability Regulations**§ 1370. Flame Resistant, Flame Retardant.**

(a) Filling materials labeled as “flame resistant,” “flame retardant” and words of similar import shall be tested in accordance with, and shall meet the requirements of, the State of California, Bureau of Home Furnishings Technical Bulletin No. 117, entitled “Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture,” dated March 2000.

(b) Fabrics labeled as “flame resistant,” “flame retardant,” and words of similar import shall be tested in accordance with, and shall meet the requirements of, the State of California, Bureau of Home Furnishings Technical Bulletin No. 105, entitled, “Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Fabrics,” dated January 1980.

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Section 19161, Business and Professions Code.

HISTORY

1. New Article 19 (§§ 1370, 1371, 1372) filed 2–15–73; effective thirtieth day thereafter (Register 73, No. 7).
2. Article 19 (Sections 1370–1373) renumbered to Article 13 (Sections 1370–1373) 5–10–74; effective thirtieth day thereafter (Register 74, No. 19).
3. Amendment of NOTE filed 12–10–81 as procedural and organizational; effective upon filing (Register 81, No. 50).
4. Amendment filed 10–15–82; effective thirtieth day thereafter (Register 82, No. 42).
5. Amendment of subsection (a) filed 8–16–2000; operative 8–16–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 33).

§ 1371. Mattresses—Open-Flame Resistance.

(a) All mattresses and mattress sets manufactured for sale in California shall meet the open-flame resistance and flammability labeling requirements of all regulations set forth in Part 1633 of Title 16 of the Code of Federal Regulations, titled “Standard for the Flammability (Open Flame) of Mattress Sets”, effective July 1, 2007.

(b) In addition to the standards set forth in subdivision (a), every manufacturer or importer that is subject to the standards set forth in Part 1633 of Title 16 of the Code of Federal Regulations, shall meet all other applicable requirements of that part, including 16 CFR 1633.11.

(c) Exemptions

One-of-a-kind (custom made) mattress sets are exempt pursuant to 16 CFR Sections 1633.1 and 1633.13(c), if the criteria for exemption can be met.

(d) For the purpose of interpreting the requirements of this section, the terms “mattress” and “mattress set” shall have the meanings set forth in section 1633.2 of Title 16 of the Code of Federal Regulations, effective July 1, 2007.

(e) Failure to comply with subdivisions (a) and (b) shall constitute grounds for discipline per Section 19210 of the Business and Professions Code.

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Sections 19161, 19081, 19089.5 and 19210, Business and Professions Code; and Code of Federal Regulations, Title 16, Part 1633.

HISTORY

1. Amendment filed 11–10–76 as an emergency; effective upon filing (Register 76, No. 46).
2. Certificate of Compliance filed 1–12–77 (Register 77, No. 3).
3. Amendment filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).
4. Amendment of section heading, section and NOTE filed 1–22–2004; operative 1–1–2005 (Register 2004, No. 4).

5. Change without regulatory effect amending subsection (b) filed 10-13-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).
6. Change without regulatory effect amending subsection (i) (including new label) filed 2-4-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 5).
7. Amendment of section heading, section and NOTE filed 11-9-2007; operative 12-9-2007 (Register 2007, No. 45).

§ 1372. Mattress Labeling and Requirements.

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Section 19161, Business and Professions Code.

HISTORY

1. Repealer filed 11-10-76 as an emergency; effective upon filing (Register 76, No. 46).
2. Certificate of Compliance filed 1-12-77 (Register 77, No. 3).

§ 1373. Voluntary Notice.

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Section 19161, Business and Professions Code.

HISTORY

1. New section filed 4-25-73 as an emergency; effective upon filing (Register 73, No. 17).
2. Certificate of Compliance filed 8-3-73 (Register 73, No. 31).
3. Amendment filed 11-10-76 as an emergency; effective upon filing (Register 76, No. 46).
4. Certificate of Compliance filed 1-12-77 (Register 77, No. 3).
5. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1373.1. Non-Flame Retardant Polyurethane Foam.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19081 and 19089.5, Business and Professions Code.

HISTORY

1. New section filed 6-9-78 as an emergency; effective upon filing (Register 78, No. 23).
2. Certificate of Compliance filed 10-6-78 (Register 78, No. 40).
3. Repealer filed 1-22-2004; operative 1-1-2005 (Register 2004, No. 4).

§ 1373.2. Flammability; Flexible Polyurethane Foam.

All flexible polyurethane foam in the form of slabs, blocks, or sheets, or which is shredded (loose or packaged), except polyurethane foam which cannot reasonably be expected to be used in or as an article of furniture or in or as a mattress, that is offered for sale to the general public at retail outlets in this state for non-commercial or non-manufacturing purposes shall meet the test requirements set forth in Section A, Part I; Section A, Part II and Section D, Part II of the State of California, Bureau of Home Furnishings Technical Bulletin No. 117, entitled "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture," dated March 2000.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19161.3, Business and Professions Code.

HISTORY

1. New section filed 3-20-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 12).
2. Amendment filed 8-16-2000; operative 8-16-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 33).

§ 1374. Flammability; Upholstered and Reupholstered Furniture.

(a) All filling materials contained in any article of upholstered furniture, and all filling materials added to reupholstered furniture, shall meet the test requirements as set forth in the State of California, Bureau of Home Furnishings Technical Bulletin Number 117, entitled "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture," dated March 2000.

(b) In addition to the requirements of subsection (a) above, finished articles of upholstered furniture may also be tested in accordance with the State of California, Bureau of Home Furnishings Technical Bulletin Number 116 entitled "Test Procedures and Apparatus for Testing the Flame Retardance of Upholstered Furniture," dated January 1980.

(c) On and after March 1, 1992, all upholstered seating furniture sold for use in public occupancies, as defined in subsection (d) below, shall meet the test requirements set forth in the State of California, Bureau of

Home Furnishings and Thermal Insulation Technical Bulletin Number 133, entitled "Flammability Test Procedure For Seating Furniture For Use in Public Occupancies," dated January 1991.

(d) For purposes of this section, the term "public occupancies" shall mean:

(1) Jails, prisons, and penal institutions, as defined in Chapter 3 of the California State Building Standards Code.

(2) Hospitals, mental health facilities, and similar health care facilities, as defined in Chapter 3 of the California State Building Standards Code.

(3) Nursing homes, board and care facilities, and convalescent homes, as defined in Chapter 3 of the California State Building Standards Code.

(4) Child day care centers, as defined in Chapter 3 of the California State Building Standards Code.

(5) Public auditoriums and stadiums, as defined in Chapter 3 of the California State Building Standards Code.

(6) Public assembly areas, as defined in Chapter 3 of the California State Building Standards Code, containing ten (10) or more articles of seating furniture and located in hotels, motels and lodging houses.

(e) Public occupancies and public assembly areas, as defined in section 1374(d), which are fully sprinklered in accordance with either National Fire Protection Association (NFPA) Standard NFPA 13-1996 or Uniform Building Code Standard No. 38-1, dated 1988 shall comply with the requirements of section 1374(a) and may comply with the requirements of section 1374(c).

(f) The flammability requirements contained in this section are considered to be flammability performance standards. Testing under these standards shall be at the discretion of the licensee; however, products and materials offered for sale in this state shall meet all applicable flammability requirements established in these regulations.

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Section 19161, Business and Professions Code.

HISTORY

1. New section filed 5-9-74; effective thirtieth day thereafter (Register 74, No. 19).
2. Repealer and new section filed 6-13-75; effective thirtieth day thereafter (Register 75, No. 24).
3. Repealer and new section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
4. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
5. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
6. Amendment filed 3-20-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 12).
7. New subsections (c)-(f) and amendment of NOTE filed 11-26-91; operative 3-1-92 (Register 92, No. 9).
8. Amendment of subsection (b) filed 7-24-96; operative 8-23-96 (Register 96, No. 30).
9. Amendment of subsections (d)(1)-(6) and (e) filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).
10. Amendment of subsection (a) filed 8-16-2000; operative 8-16-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 33).

§ 1374.1. Exemptions.

(a) Articles exempted from the provisions of Section 1374 of these regulations shall have a label attached to the surface area of the article, in plain view stating the following:

NOTICE

THIS ARTICLE DOES NOT MEET CALIFORNIA BUREAU OF HOME FURNISHING'S FLAMMABILITY REQUIREMENTS—TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) The minimum size of the label shall be 2 x 3 inches and the minimum size of type shall be one-eighth inch in height. All type shall be in capital letters.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19081 and 19161.5, Business and Professions Code.

HISTORY

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).

§ 1374.2. Criteria for Exemption.

Articles of upholstered furniture, other than juvenile furniture and furniture used for and in facilities designed for the care or treatment of humans, which meet any of the following criteria shall be exempt from compliance with the provisions of Section 19161 of the Home Furnishings Act:

(a) Cushions and pads intended solely for outdoor use.

(b) Any article which is smooth surfaced and contains no more than one-half (1/2) inch of filling material, provided that such article does not have a horizontal surface meeting a vertical surface.

(c) Articles manufactured solely for recreational use or physical fitness purposes, such as weightlifting benches, gymnasium mats or pads, sidehorses and similar articles.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Section 19161.5, Business and Professions Code.

HISTORY

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. New subsection (c) filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1374.3. Labeling.

(a) Upholstered furniture conforming to the requirements of Section 1374(a) and 1374(b) of these regulations shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETINS 116 AND 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) Upholstered articles conforming to Section 1374(a) but which may not conform to Section 1374(b) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(c) Articles of furniture conforming to the requirements of section 1374(c) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(d) Minimum size of the label for subsections (a), (b) and (c) shall be 2 x 3 inches and the minimum size of the type shall be one-eighth inch in height. All type shall be in capital letters.

(e) All flammability labels described in sections 1373.1, 1374.1, and 1374.3 shall also comply with the labeling requirements of sections 1126(a) and (b).

NOTE: Authority cited: Sections 19034 and 19161, Business and Professions Code. Reference: Sections 19080, 19081 and 19161, Business and Professions Code.

HISTORY

1. New section filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment of subsection (a) and NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
3. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
4. New subsections (c) and (e) and amendment of newly designated (d) and NOTE filed 11-26-91; operative 3-1-92 (Register 92, No. 9).
5. Amendment of subsections (a) and (b) filed 8-19-98; operative 8-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

Article 14. Custom Upholsterers**§ 1375. Oral Consent to Revision of Estimate and/or Work Order.**

(a) Where a customer orally consents to work performed or materials supplied which exceed the estimated price, the date, time and name of the person receiving such consent and the conditions of such consent, if any, shall be set forth on the estimate and on the work order.

(b) Where a customer orally consents to work performed or materials supplied which differ from those specified in the work order, the date, time and name of the person receiving such consent, and the conditions of such consent, if any, shall be set forth on the work order.

NOTE: Authority cited: Section 19034, Business and Professions Code. Reference: Sections 19162 and 19163 Business and Professions Code.

HISTORY

1. New Article 14 (Sections 1375, 1375.1 through 1375.4) filed 8-15-74; effective thirtieth day thereafter (Register 74, No. 33).
2. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1375.1. Work Order, Oral Consent, Written Record.**HISTORY**

1. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1375.2. Work Order—Copy to Customer.**HISTORY**

1. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1375.3. Work Order—Keeping of Records.**HISTORY**

1. Repealer filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1375.4. Estimate and Work Order Form Requirements.

NOTE: Authority cited: Sections 19034, 19152 and 19163, Business and Professions Code. Reference: Sections 19162 and 19163, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Renumbering and amendment to Section 1377 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1376. Work Order—Copy to Customer: Records.

NOTE: Authority cited: Sections 19034 and 19163, Business and Professions Code. Reference: Sections 19162 and 19163, Business and Professions Code.

HISTORY

1. New section filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).
2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1377. Estimate and Work Order Form Requirements.

(a) Minimum Requirements. The items of information required by this article are minimum requirements which must be included on estimates and work orders. Other information may be included if it does not detract from or obscure the information required in these regulations.

(b) Heading on Estimate and Work Order Forms. The following statement shall appear at the top of each estimate or work order form:

NOTICE

This form required by Sections 19162 and 19163 of the California Business and Professions Code.

(c) Designation of Forms. The form shall provide a means by which the custom upholsterer can indicate whether the form constitutes an estimate, work order, or both. This shall appear immediately below the statement required in (b) above.

(d) Specific Information Required. The custom upholsterer shall include on each estimate or work order form:

- (1) The name, registry number, address and telephone number of the firm.
- (2) The customer's name, address and telephone number.
- (3) A reasonably detailed description of the article to be upholstered.

(4) Description of work to be done as follows:

(A) Whether new cushions are to be provided and if so, specify type of cushion.

(B) Whether existing fabric(s) are to be completely removed.

(C) If springs are to be retied.

(D) If new filling material is to be used and if so, the form must state that a green law label specifying the contents of the article is to be attached.

(E) If frame is to be re-glued.

[The next page is 81.]

(F) Sufficient space to specify work to be done other than that shown above.

(5) Fabric information as follows:

(A) Kind of fiber fabric is composed of (generic name).

(B) Amount of yards required.

(C) Width of fabric.

(D) Price of fabric per yard.

(E) If the fabric is stain repellant.

(6) Estimated date of completion.

(7) Total cost delivered to the customer.

(8) Dated signature of the customer.

(9) Dated signature of the firm representative.

(10) A space for any additional information or conditions pertaining to the estimate or work order.

(11) The time period within which the estimate is valid.

(e) Additional Charges. The following statement shall appear at the bottom of each estimate or work order: "Sections 19162 and 19163 of the Business and Professions Code provide that no charge shall be made in excess of the estimated price without the oral or written consent of the customer."

NOTE: Authority cited: Sections 19034 and 19163, Business and Professions Code. Reference: Sections 19162 and 19163, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former Section 1375.4 to Section 1377 filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42). For prior history, see Register 81, No. 50.

§ 1379. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the bureau shall consider the disciplinary guidelines entitled "Bureau of Home Furnishings and Thermal Insulation's Disciplinary Guidelines (August 1997)" which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the bureau in its sole discretion determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Section 19034, Business and Professions Code; and Sections 11400.20 and 11400.21, Government Code. Reference: Sections 11400.20, 11400.21 and 11425.50(e), Government Code.

HISTORY

1. New section filed 11-5-97; operative 11-5-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).

Article 15. Denial, Suspension and Revocation of Licenses

§ 1380. Substantial Relation Criteria.

For the purposes of denial, suspension or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime shall be considered to be substantially related to the qualifications, functions or duties of a licensee under Division 8, Chapter 3 (commencing with Section 19000) of the Business and Professions Code, if to a substantial degree it evidences present or potential unfitness of such licensee to perform the functions authorized by his licence in a manner consistent with the public health, safety, or welfare. Such crimes shall include but not be limited to:

(a) Those violations specifically enumerated in Articles 3 through 7, inclusive, and Article 9 of Chapter 3 of Division 8 of the Business and Professions Code. (Chapter 3 of Division 8 of the Business and Professions Code is commonly called the Home Furnishings Act.)

(b) Those violations specifically enumerated in Article 1 of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code. (Article 1 of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code is that portion of the Code which concerns general false and misleading advertising practices.)

NOTE: Authority cited: Sections 481 and 19034, Business and Professions Code. Reference: Sections 480 and 481, Business and Professions Code.

HISTORY

1. New Article 15 (§§ 1380-1382) filed 4-15-75; effective thirtieth day thereafter (Register 75, No. 16). For prior history of Article 15, see Registers 74, No. 19; 68, No. 25; and 66, No. 27.
2. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1381. Criteria for Rehabilitation.

When considering the denial, suspension or revocation of a license on the ground of conviction of a crime the Bureau will consider the following criteria:

(a) The nature and severity of the offense(s).

(b) Total criminal record.

(c) Extent of time that has elapsed since commission of the offense(s).

(d) Whether the licensee has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(e) Evidence, if any, of rehabilitation submitted by the licensee.

(1) Include (if applicable) evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

NOTE: Authority cited: Sections 482 and 19034, Business and Professions Code. Reference: Sections 480 and 482, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).
2. Amendment filed 10-15-82; effective thirtieth day thereafter (Register 82, No. 42).

§ 1382. Petition for Reinstatement.

When considering a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Bureau will evaluate evidence of rehabilitation submitted by the licensee, considering those criteria specified in Section 1381 of this article.

NOTE: Authority cited: Sections 475 and 19034, Business and Professions Code. Reference: Sections 475, 480 and 482, Business and Professions Code.

HISTORY

1. New NOTE filed 12-10-81 as procedural and organizational; effective upon filing (Register 81, No. 50).

Article 15.5. Citation Regulations

§ 1383. Citations.

The chief of the bureau is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and/or fines for violations by any person as defined by Section 19002 of the Business and Professions Code who holds a license for a violation of provisions of law referred to in Section 1383.2 of this article.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New article 15.5 (sections 1383-1383.6) filed 9-8-93; operative 10-8-93 (Register 93, No. 37).

§ 1383.1. Citation Format.

Each citation shall:

(a) be in writing;

(b) describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated;

(c) contain assessment of an administrative fine and/or an order of abatement fixing a reasonable period of time for abatement;

(d) inform the cited person that if he or she desires a hearing to contest the finding of the violation, that hearing shall be requested by written notice to the bureau within 30 days of the issuance of the citation;

(e) be served upon the licensee personally or by certified mail.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9-8-93; operative 10-8-93 (Register 93, No. 37).

§ 1383.2. Fines.

(a) The chief shall assess fines in accordance with the following schedule: provided, however, in no case shall the total exceed \$2,500 for each inspection made with respect to the violation.

Rule*	Description	Range of Fines
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Article 1. General Provisions

1108	Procedure Re License	\$150 to 1,500
1109	"Withhold from Sale" Tag	100 to 1,000
1110	Names of Filling Materials	100 to 1,000
1113	Deviation from Percentages Stated	100 to 1,000
1114	Water Repellent, Water Resistant	100 to 1,000
1116	Mildew Proof, Mildew Resistant	100 to 1,000
1118	Moth Proof, Moth Resistant	100 to 1,000
1119	Bacteria Proof, Odor Resistant	100 to 1,000
1120	Stain Proof, Stain Resistant	100 to 1,000
1121	Soil Resistant, Soil Repellent	100 to 1,000

Article 2. Official Law Labels for Upholstered Furniture and Bedding and Bulk Filling Materials

1125	Labelling Requirements	100 to 1,000
1126	Official Law Label Requirements	100 to 1,000

Article 2.5. Universal Filling Requirements

1130	Cleanliness	100 to 1,000
1131	Oil and Grease Limitations	100 to 1,000
1132	Trash Limitation – Vegetable Fibers	100 to 1,000

1133	Sludge Limitations	100 to 1,000
1134	Residue Limitations	100 to 1,000

Article 3. Universal Definitions and Labeling

1135	Terms of Definition and Label Requirements	100 to 1,000
1137	Care Instructions	100 to 1,000

Article 5. Plumage Regulations

1192.1	Plumage Products – Comply with Federal Standards	100 to 1,000
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Article 9. Sanitization Regulations

1253	Chamber Identification	100 to 1,000
1254	Lot (sanitization)	100 to 1,000
1256	Records (sanitization)	100 to 1,000
1258	Method of Sanitization	100 to 1,000
1265	Disinfecting (sanitization)	100 to 1,000
1266	Official Sanitization Label (sanitization) Requirements	100 to 1,000

Article 10. False or Misleading Advertising

1301	Former Price	200 to 2,000
1302	Former Price of Same Article	200 to 2,000
1304.1	Bait and Switch Advertising	200 to 2,000
1305	Special Sale	200 to 2,000
1306	Purchase of Additional Merchandise	200 to 2,000
1307	Pre-Ticketing	200 to 2,000

Rule*	Description	Range of Fines
1308	Imperfects, Irregulars, Second or Damaged	200 to 2,000
1309	Factory Outlet	200 to 2,000
1309.1	Factory Sales	200 to 2,000
1309.2	Factory Direct	200 to 2,000
1310	Custom Made	200 to 2,000
1311	Labor Free	200 to 2,000
1312	Liquidation	200 to 2,000
1313	Guarantee and Warranty	200 to 2,000
1314	Disclosure of Guarantee	200 to 2,000
1315	Pro-rata Guarantee	200 to 2,000
1316	Secondhand Merchandise	200 to 2,000

Article 12. Liquid-Filled Bedding Regulations

1351	Official Law Labels (waterbeds)	100 to 1,000
1353	Information Label (waterbeds)	100 to 1,000
1354	Water Mattress (waterbeds)	100 to 1,000
1355	Waterbed Lines (waterbeds)	100 to 1,000
1356	Waterbed Frames (waterbeds)	100 to 1,000
1356.1	Waterbed Frame Addition (waterbeds)	100 to 1,000
1356.2	Waterbed Deck (waterbeds)	100 to 1,000
1356.3	Waterbed Riser (waterbeds)	100 to 1,000
1357	Waterbed Heaters (waterbeds)	100 to 1,000
1358	Quality Control (waterbeds)	100 to 1,000
1359	Manufacturing Facilities (waterbeds)	100 to 1,000
1360	Required Consumer Information (waterbeds)	100 to 1,000

Article 13. Flammability Regulations

1370	Flame Resistant, Flame Retardant	250 to 2,500
1371	Mattresses	250 to 2,500
1373.1	Non-Flame Retardant Polyurethane Foam	250 to 2,500
1373.2	Flammability; Flexible Polyurethane Foam	250 to 2,500
1374	Flammability; Upholstered and Reupholstered Furniture	250 to 2,500

Rule*	Description	Range of Fines
1374.1	Exemptions	250 to 2,500
1374.3	Labeling	100 to 1,000

Article 14. Custom Upholsters

1375	Oral Consent to Revision of Estimate and/or Work Order	150 to 1,500
1377	Estimate and Work Order Form Requirements	150 to 1,500

Business and Professions Code Section**Article 3. Licensing**

19060	Separate license for each branch house	150 to 1,500
19060.5	On his own account	150 to 1,500
19060.6	Contracts for repair of furniture and bedding	150 to 1,500
19061	One address, multiple names	150 to 1,500
19062	Posting of license	100 to 1,000

<i>Rule*</i>	<i>Description</i>	<i>Range of Fines</i>
Article 4. Application of Chapter		
19071	Sanitization	100 to 1,000
19072	Compliance with chapter defined	150 to 1,500
19072.5	Responsibility for labeling	100 to 1,000
19072.6	Labeling of slip seats	100 to 1,000
Article 5. Labeling		
19080	Law label	100 to 1,000
19083	Attaching labels	100 to 1,000
19084	Printing on one side	100 to 1,000
19085	Advertising on label	100 to 1,000
19086	Covering label	100 to 1,000
19087	Removal of labels	250 to 2,500
19088	Misleading information on labels	200 to 2,000
19089.3	Waterbed labels	100 to 1,000
19089.5	Non fire retardant material label	250 to 2,500
19092	Secondhand material label	100 to 1,000
19093	Custom Upholster label	100 to 1,000
Article 6. Sanitization		
19121	Resale of soiled bedding	100 to 1,000
19122	Testing of sanitization equipment	100 to 1,000
19123.4	Sanitization of secondhand filling	100 to 1,000
19123.5	Sanitization for resale	100 to 1,000
19123.6	Sanitization of secondhand bedding	100 to 1,000
19124	Sanitization in accordance with regulations	100 to 1,000
19124.5	Affixing sanitization label	100 to 1,000
19127.5	Illegal possession of sanitization label	100 to 1,000
19127.6	Sanitizer label records	100 to 1,000
19129	Sanitization of secondhand bedding	100 to 1,000
19131	Sanitization of bedding —contagious disease	250 to 2,500
19132	Separation of sanitized items from unsanitized items	100 to 1,000
Article 7. Regulations		
19150	False advertising	200 to 2,000
19151	Misleading illustrations	200 to 2,000
19152	Unconditional warranties	200 to 2,000
19158	Custom upholsterer ID label	100 to 1,000
19160	Cleanliness of premises	100 to 1,000
19161	Fire retardant requirements	250 to 2,500
19161.3	Fire retardant polyurethane foam	250 to 2,500
19162	Custom upholsterer estimate	150 to 1,500
19163	Custom upholsterer work order	150 to 1,500
19165	Insulation product testing	250 to 2,500
Article 9. Enforcement		
19204	Removal of Withhold tag	250 to 2,500
19205	Failure to produce withheld products	250 to 2,500
19206	Interference with an inspector's duties	250 to 2,500

*References for Rules are to sections of Title 4 of the California Code of Regulations.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9–8–93; operative 10–8–93 (Register 93, No. 37).
2. Amendment of subsection (a) and table filed 7–24–96; operative 8–23–96 (Register 96, No. 30).
3. Amendment filed 8–19–98; operative 8–19–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 34).

§ 1383.3. Citation Factors.

In assessing an administrative fine and issuing an order of abatement, the chief shall give due consideration to the following factors:

- (a) The nature and severity of the violation.
- (b) The good or bad faith of the cited person.
- (c) The history of previous violations.
- (d) Evidence that the violation was willful.
- (e) The extent to which the cited person or entity has cooperated with the bureau
- (f) The extent in which the cited person has mitigated or attempted to mitigate any loss caused by the violation.
- (g) The extent of the consumer injury which is a direct and proximate result of the violation.
- (h) Such other matters as justice may require.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9–8–93; operative 10–8–93 (Register 93, No. 37).

§ 1383.4. Failure to Comply with Order.

(a) The time allowed for the abatement of a violation shall begin the first day after the order of abatement has been served or received. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the chief in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) An order of abatement shall either be personally served or mailed by certified mail, return receipt requested.

(c) When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement may result in disciplinary action being taken by the bureau or other appropriate judicial relief being taken against the person cited.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9–8–93; operative 10–8–93 (Register 93, No. 37).

§ 1383.5. Contest of Citations.

(a) In addition to requesting a hearing provided for in subdivision (b)(4) of Section 125.9 of the Business and Professions Code, the person cited may, within ten (10) days after service of the citation, notify the chief in writing of his or her request for a citation review conference with the chief regarding the acts charged in the citation.

(b) The chief shall hold, within 30 days from the receipt of the request, a citation review conference with the person cited or his or her legal counsel or authorized representative. At the conclusion of the citation review conference the chief may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The chief shall state in writing the reasons for his or her action and transmit a copy of his or her findings and decision to the person cited. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her right to request a hearing to contest the citation by requesting a citation review conference after which the citation is affirmed by the chief. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and the new citation issued. If a hear-

ing is requested for the subsequent citation, it shall be requested within 30 days in accordance with the subdivision (b)(4) of Section 125.9 of the Business and Professions Code.

NOTE: Authority cited: Sections 125.9, 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9-8-93; operative 10-8-93 (Register 93, No. 37).

§ 1383.6. Unlicensed Practice.

The chief may issue citations, in accordance with Section 125.9 of the code, against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the bureau and who is not otherwise exempt from licensure. Each citation shall contain an order of abatement fixing a reasonable period of time for abatement of a violation and may contain assessment of an administrative fine. Administrative fines shall be in a range from \$100 to \$2,500 for each investigation. Any sanction authorized for the activity under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 148 and 19034, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 9-8-93; operative 10-8-93 (Register 93, No. 37).

Article 16. Complaint Disclosure

§ 1385. Public Access to Information.

NOTE: Authority and reference cited: Section 19034, Business and Professions Code.

HISTORY

1. New Article 16 (Sections 1385-1385.4) filed 3-9-81; effective thirtieth day thereafter (Register 81, No. 11). For prior history, see Registers 68, No. 25; and 66, No. 27.

2. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1385.1. Information to Be Provided Regarding Complaints.

NOTE: Authority and reference cited: Section 19034, Business and Professions Code.

HISTORY

1. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1385.2. Information to Be Provided Regarding Disciplinary Actions.

NOTE: Authority and reference cited: Section 19034, Business and Professions Code.

HISTORY

1. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1385.3. Information to Be Provided Regarding License Status.

NOTE: Authority and reference cited: Section 19034, Business and Professions Code.

HISTORY

1. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

§ 1385.4. Quantity of Information to Be Provided per Week.

NOTE: Authority and reference cited: Section 19034, Business and Professions Code.

HISTORY

1. Repealer filed 7-24-96; operative 8-23-96 (Register 96, No. 30).

Article 17.

HISTORY

1. Repealer of Article 17 (Sections 1343-1349) filed 5-10-74; effective thirtieth day thereafter (Register 74, No. 19). For prior history of Article 17, see Register 66, No. 27.

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Title 4. Business Regulations

Division 4. California Horse Racing Board

Vol. 5

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Division 4. California Horse Racing Board

(Originally Printed 3–22–45)

Article 1. Racing Board Powers and Jurisdiction

§ 1400. Powers Reserved.

All powers of the Board not specifically defined in these rules and regulations are reserved to the Board.

NOTE: Authority cited: Article IV of Section 19b, California Constitution and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. Repealer of Chapter 4 (§§ 1400 through 2011, not consecutive) and new Chapter 4 (§§ 1400 through 1990, not consecutive) filed 8–1–73; designated effective 9–1–73 (Register 73, No. 31). For prior history, see Registers 60, Nos. 5, 8, 20, 24, 25; 61, No. 16; 63, Nos. 4, 20; 64, Nos. 12, 23; 65, Nos. 2, 6, 9, 15, 18; 66, Nos. 5, 10, 23, 40; 67, Nos. 18, 38, 43; 68, No. 27; 69, Nos. 22, 29, 38; 70, Nos. 6, 14, 27, 40, 47, 48; 71, Nos. 6, 19, 27, 28, 35, 40; 72, No. 38.

§ 1401. Jurisdiction.

The jurisdiction of the Board over matters covered by law or the rules is continuous throughout the year.

§ 1402. Controlling Authority.

The law, rules, and orders of the Board supersede the conditions of a race or race meeting and govern thoroughbred, harness, quarter horse, appaloosa, arabian, paint and mule racing. The stewards may enforce rules or conditions set forth by breed registry organizations if such rules or conditions are not inconsistent with the rules of the Board. The breed registry organizations are the Jockey Club for thoroughbred racing, the United States Trotting Association for harness racing, the American Quarter Horse Association for quarter horse racing, the Appaloosa Horse Club for appaloosa racing, the Arabian Horse Registry of America for arabian racing, the American Paint Horse Association for paint racing, and the American Mule Association for mule racing.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19562, 19563, 19564 and 19703, Business and Professions Code.

HISTORY

1. Amendment filed 4–21–83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 3–24–92; operative 4–23–92 (Register 92, No. 13).
3. Change without regulatory effect amending section and NOTE filed 12–23–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
4. Editorial correction of NOTE (Register 97, No. 26).
5. Change without regulatory effect amending section and NOTE filed 10–14–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 1403. Rules Applicable.

HISTORY

1. Repealer filed 4–21–83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1404. Punishment for Violation.

HISTORY

1. Repealer filed 4–21–83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1405. Punishment by the Board.

Violation of any provision of this Division, whether or not a penalty is fixed therein, is punishable in the discretion of the Board by revocation or suspension of any license, by fine, or by exclusion from all racing inclosures under the jurisdiction of the Board, or by any combination of these penalties. The Board may independently punish any misconduct of any person connected with racing.

NOTE: Authority cited: Sections 19420, 19440, 19562, 19572 and 19703, Business and Professions Code. Reference: Sections 19460, 19461, 19517, 19661 and 19702, Business and Professions Code.

HISTORY

1. Amendment filed 4–21–83; effective thirtieth day thereafter (Register 83, No. 17).

2. Change without regulatory effect amending section filed 12–23–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
3. Change without regulatory effect amending section filed 4–16–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 16).

§ 1406. Suspension of Rule.

For good cause, with or without a hearing, the Board may temporarily suspend the application of any of its rules upon any conditions it may impose. Every application for such action and any such action by the Board shall, insofar as possible, be in writing. If not in writing, it shall be confirmed in writing as soon thereafter as possible.

§ 1407. Extensions for Compliance.

If a licensee fails to perform an act, or obtain required action from the Board, within the time prescribed therefor by these rules, the Board, at some subsequent time, may allow the performance of such act or may take the necessary action with the same effect as if the same were performed within the prescribed time.

§ 1408. Order to Appear.

HISTORY

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1409. Meetings of the Board.

HISTORY

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1410. Notice of Meeting.

HISTORY

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1411. Delegation of Authority.

HISTORY

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1412. Interference with Board Investigation.

HISTORY

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1413. Notice to Licensee.

Whenever notice is required to be given by the Board or the stewards, such notice shall be given in writing either by personal delivery to the person to be notified or by mailing such notice addressed to such person at his address as on file with the Board.

§ 1414. Appointment of Referee.

When directed by the Board, any one commissioner, the Executive Director, any hearing officer assigned by the Office of Administrative Hearings or any other qualified person may sit as referee for the taking of evidence in any matter pending before the Board; any such referee shall report to the Board outlining all findings and the Board shall determine the matter as if such evidence had been presented to the full Board.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adopting NOTE filed 6–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).

Article 2. Definitions

§ 1420. Definitions.

As used in these rules:

- (a) "Chairman" means the member elected by the Board to be Chairman of the Board and its presiding member.
- (b) "Commissioner" means a member of the Board.
- (c) "Age of Horse" means the age as reckoned beginning on the first day of January of the year in which the horse was foaled.
- (d) "Authorized Agent" means an agent appointed by a written document which is signed by the owner and filed with the Board.
- (e) "Breeder" means the owner of the dam at the time of foaling.
- (f) "Conviction" includes a plea of guilty, forfeiture of bail, a judgment or verdict of guilty, or a conviction following a plea of nolo contendere, whether or not the conviction is later set aside pursuant to the provisions of Section 1203.4 of the Penal Code.

(g) "Driver" means one who drives and controls the horse from a seated position on a two-wheel vehicle.

(h) "Horse" means an equine and includes a stallion, gelding, mare, colt, filly or ridgling and includes mule, jack, jenny, ginnnet, and hinney.

(i) "Jockey" means a race rider.

(j) "Licensee" means a licensee of the California Horse Racing Board.

(k) "Maiden" means a horse which has never won a race on the flat in a state or country where the races are covered by the Daily Racing Form or other similar authorized publication. A maiden which has been disqualified after finishing first is still a maiden. Conditions referring to maidens apply to the status at the time of starting.

(l) "Nominator" means a person in whose name a horse is entered to race.

(m) "Objection" means a formal complaint filed before a race with the stewards or the Board objecting to the eligibility of any horse to compete in the race or the right of any person to participate in the race.

(n) "Owner" includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. If husband and wife, it is presumed that joint ownership exists.

(o) "Post" means the place on the race course from which a start is made.

(p) "Post Time" means the definite time for the start of a race, and is indicated by a clock device set up as directed by the Board.

(q) "Premises" means the inclosure and all other areas collectively utilized by an association in connection with its conduct of a licensed race meeting, including parking lots, auxiliary stabling areas, public inclosure and restricted areas, whether or not the areas are adjacent to the inclosure.

(r) "Protest" means a formal complaint filed after a race with the stewards or the Board protesting the right of any horse to a place, purse or award in the race, or protesting any decision of the stewards relating to the eligibility, participation or placing of any horse in a race.

(s) "Race" means a contest among horses for a purse, stake or reward, contested at an authorized race meeting. "Race" includes but is not limited to:

(1) Purse Race. A race for money or any other prize to which the owners of the horses engaged do not contribute.

(2) Stake Race. A race for which owners of horses entered or engaged for the race contribute to a purse for which money or any other prize may be added, nominations to which close 72 hours or more before starting.

(3) Claiming Race. A race in which any horse entered therein may be claimed in conformity with the rules established by the Board.

(4) Handicap Race. A race in which the weights to be carried by the entered horses are adjusted by a handicapper, board of handicappers or the racing secretary, to equalize their respective chances of winning.

(5) Overnight Race. A race in which entries close 72 hours or less, excluding Sundays, in advance of the first race of the day on which the race is to be run.

(6) Walkover. A stake race in which only one horse starts or in which all the starters are owned by the same interest.

(7) Invitational Stake Race. An invitational stake race or an invitational handicap race for which owners do not contribute to the purse, but which is advertised in the regular stakes program, shall also be considered a stake race.

(8) Non-wagering Race. A race contested without pari-mutuel wagering on its results including a race upon which pari-mutuel wagering is canceled.

(9) Match Race. A race contested between two horses under conditions of the contest agreed to by their owners.

(10) "Special Racing Event." A race of unique interest, magnitude or fame. "Special racing event" shall also mean an exhibition race when approved by the Board.

(11) "Exhibition Race." A race contested under conditions established by the association as a promotional event or to provide a special racing opportunity to a particular horse or class of horse or class of participants and to which the association contributes the purse or awards for the contest. No pari-mutuel wagering may be conducted on the results of an exhibition race.

(t) "Race on the Flat" means a race run over a course on which no jumps or other obstacles are placed.

(u) "Recognized Meeting," "Race Meeting," or "Authorized Meeting" means the entire period under the conduct of an association within the inclosure of the designated grounds, and for which a license has been granted by the Board. When the context in the rules applies, it may include a meeting conducted by an association in some other jurisdiction recognized by the Board.

(v) "Restricted Area" means those areas within the inclosure where admission can be obtained only upon presentation of authorized credentials, proper license or visitor's pass, including those areas designated as the stable area, receiving or detention barn, jockey room, saddling paddock, race course and pari-mutuel department.

(w) "Rules" means the Rules and Regulations of the California Horse Racing Board and the orders of the Board.

(x) "Starter" means a horse when it is in the starting gate stall, and, when the field is dispatched by the starter, the stall gate in front of the horse is opened.

(y) "Sulky" means a dual wheel racing vehicle with dual shafts not exceeding the height of the horses withers. Shafts must be hooked separately on each side.

(z) "Time of Race Meeting" means that period of time commencing at 12:01 A.M. on the first day of racing at a recognized meeting and concluding at 12:00 midnight after the final race of the last day of racing as allocated and licensed by the Board.

(aa) "Weight for Age" means the standard weight to be carried by a horse according to the scale established by the rules, and remains such though there be penalties or allowances.

NOTE: Authority cited: Sections 19440, 19562 and 19563, Business and Professions Code. Reference: Sections 19401(e) and 19420, Business and Professions Code.

HISTORY

1. Amendment filed 8-3-79; effective thirtieth day thereafter (Register 79, No. 31).
2. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
3. New subsection (y) and subsection redesignation filed 6-23-94; operative 7-25-94 (Register 94, No. 25).
4. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1421. Included Terms.

HISTORY

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1423. Gender and Number.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

Article 3. Racing Association

§ 1430. Allocation of Racing Weeks and Dates.

The Board shall allocate racing weeks and dates for the conduct of horse racing in this State for such time periods and at such racing facilities as the Board determines will best subserve the purposes of the Horse Racing Law and which will be in the best interests of the people of California in accord with the intent of the Horse Racing Law. Upon a finding by the Board that the allocation of racing weeks and dates for any racing year is completed, the racing weeks and dates so allocated shall be subject to reconsideration or amendment only for conditions unforeseen at the time of the allocations. The allocation of racing weeks and dates does not commit the Board to the granting of a license to conduct a horseracing meeting to any specific racing association nor for the allotted time period nor at the racing facility scheduled for such racing weeks and dates.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19530, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; effective thirtieth day thereafter (Register 80, No. 35).

§ 1431. Notice of Intention to File for License.

Every person who has not held a license to conduct a horseracing meeting in the preceding year who intends to file an application to conduct an authorized race meeting and/or an application for license to conduct a horseracing meeting shall file with the Board a Notice of Intention to file such applications. The required notice of intention shall be filed no later than one hundred twenty (120) days in advance of the proposed or scheduled date for the commencement of the meeting intended to be specified in the application for license. Any prospective applicant for license to conduct a horseracing meeting failing to file timely the notice of intention may be disqualified and its application for license refused summarily by the Board. In the absence of any timely notice of intention filed by a prospective applicant intending to file an application for a license for a race meeting conducted in the preceding year by any other person the presumption shall be that the person having held the license to conduct the horseracing meeting in the preceding year is deemed to have been allocated the racing weeks and dates for a like horseracing meeting as scheduled by the Board for the current annual racing calendar. NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19530, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; effective thirtieth day thereafter (Register 80, No. 35).

§ 1432. Board May Demand Information.

The Board may require any racing association, prospective racing association or other person intending to make application for license to conduct a horseracing meeting to furnish the Board with a detailed proposal and disclosure as to its proposed racing program, purse program, officials, principals or shareholders, plant, premises, facility, finances, lease arrangements, agreements, contracts and such other information as the Board may require to determine the eligibility and qualifications of the association or person to conduct a race meeting.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19480, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; effective thirtieth day thereafter (Register 80, No. 35).

§ 1433. Application for License to Conduct a Horse Racing Meeting.

(a) Unless the Board requires an earlier filing, at least 90 days before the time allocated by the Board for a race meeting to start, the association shall file with the Board an Application for License to Conduct a Horse Racing Meeting, CHRB-17 (Rev. 12/06), which is hereby incorporated by reference. Note: CHRB-17 incorporates by reference, the Personal History Record, CHRB-25A (Rev. 7/93). A California fair shall file with the Board an Application for License to Conduct a Horse Racing Meeting of a California Fair, CHRB-18 (Rev. 12/06), which is hereby incorporated by reference. Copies of CHRB-17 and CHRB-18 may be obtained at the California Horse Racing Board headquarters office.

(b) No racing association that operates four weeks or more of continuous Thoroughbred racing in a calendar year shall be licensed to conduct a horse racing meeting at a facility that has not installed a polymer synthetic type racing surface. This Subsection shall become operative on January 1, 2008.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19480, 19481, 19481.3 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; effective thirtieth day thereafter (Register 80, No. 35).
2. Amendment filed 1-13-94; operative 2-14-94 (Register 94, No. 2).
3. Change without regulatory effect amending first paragraph filed 7-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 27).
4. Amendment of first paragraph filed 6-3-96; operative 7-3-96 (Register 96, No. 23).
5. Change without regulatory effect amending first paragraph filed 6-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).

6. Amendment of first paragraph and NOTE filed 4-14-98; operative 5-14-98 (Register 98, No. 16).
7. Amendment of section heading and first paragraph and repealer of subsections (a)-(u) filed 10-11-2001; operative 11-10-2001 (Register 2001, No. 41).
8. Amendment of section and NOTE filed 10-12-2005; operative 11-11-2005 (Register 2005, No. 41).
9. Amendment designating first paragraph as subsection (a), new subsection (b) and amendment of NOTE filed 1-26-2007; operative 2-25-2007 (Register 2007, No. 4).
10. Amendment of subsection (a) and NOTE filed 5-8-2007; operative 6-7-2007 (Register 2007, No. 19).

§ 1434. Denial of License.

Notwithstanding the allocation of racing weeks and dates and Rule 1431 of this division the Board may deny a license to conduct a horse racing meeting when it determines the proposed horse racing meeting is not in the public interest or fails to serve the purposes of the Horse Racing Law or fails to meet any requirement of the law or the Board's regulations. In addition to any other reason, the Board may refuse to issue or deny a license to any applicant who fails to provide the Board with evidence that it has a binding commitment for the use of an approved racing facility or who fails to provide the Board with evidence of its ability to meet its estimated financial obligations for the conduct of the horse racing meeting.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19480, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; effective thirtieth day thereafter (Register 80, No. 35).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1435. Transfer or Assignment of License.**HISTORY**

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1436. Duty of Licensed Association.

Each association shall observe and enforce the rules. The license is granted on the condition that the association, its officials, its employees and its concessionaires shall obey all decisions and orders of the Board.

§ 1437. Conditions of a Race Meeting.

The association may impose conditions for its race meeting as it may deem necessary, provided, however, that such conditions may not conflict with the rules, regulations or orders of the Board, that such conditions are published in the condition book or otherwise made available to all licensees participating in its race meeting, that such conditions are posted on the association bulletin board, and a copy of the conditions filed with the Board. The association may also impose requirements, qualifications or requisites for its race meeting as it may deem appropriate.

§ 1439. List of Shareholders.

Each association shall, if a corporation, maintain a current list of stockholders and the number of shares held by each and such list shall be available for inspection by the Board. The association shall immediately inform the Board of any change of corporate officers or directors, or any change in stockholders when such change of the holdings of any individual stockholder exceeds 5% of the outstanding shares of the corporation. The real owner of the stock shall be listed if known. The Board may require the disclosure of the real name of any individual or person who holds over 5% of the outstanding shares of any racing association and may refuse to issue a license to, or suspend the license of, any association which fails to disclose the real name of such shareholders if such information is known to or ascertainable by the association.

§ 1440. Approval of Concessionaires.

(a) No guest association, as defined in Article 24, Rule 2056(h) in this Division, or racing association or person licensed by the Board to conduct a horseracing meeting shall engage, contract with or permit any person or entity to act as a concessionaire for the purpose of providing service to the association in the form of food and beverage service, janitorial

service, or racing selection service unless such person or entity providing such service has been approved by the Board.

(b) In order to be approved, a person or entity who contracts to act as a concessionaire shall submit to the Board CHRB-87 (Rev. 5/97) Application for License/Contractor or Sub-contractor, Application for Approval/Concessionaire, which is hereby incorporated by reference. The completed CHRB-87 shall accompany CHRB-17 Application for License to Conduct a Horseracing Meeting or CHRB-18 Application For License to Conduct a Horseracing Meeting of a California Fair.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19420, 19440 and 19510, Business and Professions Code.

HISTORY

1. Amendment filed 8-28-80; designated effective 10-25-80 (Register 80, No. 35).
2. Amendment of section and NOTE filed 9-19-94; operative 10-19-94 (Register 94, No. 38).
3. Change without regulatory effect amending section filed 6-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).

§ 1440.5. Licensing of Contractors and Sub-contractors.

(a) An entity acting in any of the following capacities shall procure the appropriate license by completing and submitting to the Board, CHRB-87 (Rev. 5/97), Application for License/Contractor or Sub-contractor, Application for Approval/Concessionaire which is hereby incorporated by reference, at least ninety (90) calendar days before the date the entity intends to commence business at live race meetings and/or simulcast wagering facilities and pay the required fee as follows:

(1) Totalizator Company	\$1,000
(2) Simulcast Service Supplier	\$1,000
(3) Video Production Company	\$250
(4) Timing Company	\$250
(5) Photo Finish Company	\$250

(b) Every license granted by the Board under this rule shall expire on the last day of the issuance month and is renewable annually.

(c) The Board shall notify an applicant in writing within fourteen (14) calendar days from the receipt date by the Board's Administrative office if its application is complete or deficient. If the application is deficient, the notice shall include:

- (1) Instructions as to what is required of the applicant to complete the application.
- (2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(d) The Board shall approve or deny an application within ninety (90) calendar days from the receipt date by the Board unless the applicant requests and is granted additional time to supply information.

(e) If the Board denies an application, the applicant has thirty (30) calendar days, from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. This request must be in writing and sent to the Board's Administrative office. The Board shall respond in writing to the reconsideration request within thirty (30) working days from the receipt date of the request. If reconsideration is denied, the applicant may file for judicial review in accordance with Section 11523 of the Government Code.

(f) The Board may deny, suspend or revoke the license on grounds or reasons which include, but are not limited to, the following determinations:

- (1) The contractor/sub-contractor is ineligible to conduct business in this state pursuant to any federal or state statute.
- (2) The contractor/sub-contractor or any of its officers, directors, partners or principal management employees have engaged in any activity which is a grounds for denial, suspension or revocation of a license pursuant to this Division, or has failed, refused or neglected to comply with any Board order, rule, regulation, or order by the Board's Stewards reasonably related to its operations as a contractor/sub-contractor. The license shall remain denied, suspended or revoked until all parties of the licensee comply with Board conditions. The remaining parties of the li-

censee shall not be prohibited from applying for a new license if compliance cannot be obtained from the offending party.

(g) If the Board fails to comply with the time frames outlined in this rule, the entity applicant may appeal, in writing, directly to the Board's Executive Director. Upon receipt of an appeal, the Executive Director shall render a decision, in writing to the applicant, within thirty (30) working days. If the appeal is decided in the applicant's favor, the license fee shall be refunded within fourteen (14) working days.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19510 and 19521, Business and Professions Code.

HISTORY

1. New section filed 9-12-95; operative 10-12-95 (Register 95, No. 37).
2. Change without regulatory effect amending subsections (a), (b), (f)(2) and (g) filed 6-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).

§ 1441. Photographic Device.

All associations shall install and maintain in good service a photographic device for photographing the finishes of all races to assist the placing judges and the stewards in determining the finishing positions of the horses. A photograph of each finish shall be promptly posted for public view in at least one conspicuous place in the public inclosure.

§ 1442. Photographic or Videotape Recording of Races.

All associations shall install and operate a system to provide a photographic or videotape recording of each race so that such recording clearly shows the position and action of the horses and jockeys at close enough range to be easily discernible. If a foul is claimed, or observed by the officials, no decision shall be rendered by the stewards until they have viewed the recording of the race. Except with prior approval of the Board, every race other than a race run solely on a straight course shall be recorded by use of at least three cameras to provide both panoramic and head-on views of the race.

§ 1443. Identification of Photographs.

All photographs or photographic or videotape recordings required by these rules shall be identified by indicating thereon the day, number of the race and the name of the association at which the race is held.

§ 1444. Altering Official Recordings.

No person shall cut, mutilate, alter or change any photofinish photograph, film patrol photo, photographic or videotape recording for the purpose of deceit or fraud of any type.

§ 1445. Preservation of Official Recordings.

All associations shall preserve all photographic or videotape recordings of all races for at least 90 days after the close of their meeting. Upon request of the Board the association shall furnish the Board with a clear positive print of the photographic recording of any race or a kinescope print of the videotape recording of any race.

§ 1446. Viewing Room Required.

The association shall maintain a viewing room for the purpose of projecting the photographic recording of races, or the videotape screening of the races, for viewing by jockeys, trainers, owners, and other interested persons authorized by the stewards.

§ 1447. Communication System Required.

The association shall install and maintain in good service a communication system between the stewards' stand, pari-mutuel department, patrol judges, starter, ambulance locations, and other designated places.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19440 and 19460, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1448. Bulletin Board Required.

The association shall erect and maintain a bulletin board close to the racing secretary's office or in places where access is granted to all licensees, upon which all official notices of the Board shall be posted.

§ 1449. Distance Poles.

The distance poles shall be the following colors:

1/4 poles	red and white horizontal stripes
1/8 poles	green and white horizontal stripes
1/16 poles	black and white horizontal stripes

§ 1450. Complaint Desk.

The association shall maintain a place where written complaints or claims of violations of the rules or laws may be filed. A copy of any written complaint or claim filed with the association shall be furnished the Board within 48 hours of its receipt.

§ 1451. Lottery Tickets Prohibited.**HISTORY**

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1452. Feed and Supplies.

No association shall grant an exclusive concession to any vendor of feed, racing supplies or racing services.

§ 1453. Racing Selection Services.

The association shall prohibit the sale, offering for sale, or giving away of any racing selection sheet, or other racing prediction which is required to be filed with the Board pursuant to the provisions of Section 19664 of the Business and Professions Code, upon the premises of the association, except with prior approval of the Board.

§ 1454. Board May Direct Notices on Program.

The Board may direct the association to publish in the program any information and notices to the public as it deems necessary.

§ 1456. Honoring Official Credentials.

Credentials issued by the Board shall be honored for admission at all gates and entrances and to all places within the inclosure. Automobiles with vehicle decals issued by the Board shall be permitted ingress and egress at any point. Credentials issued by the Association of Racing Commissioners International, Inc. to its members, past members and staff shall be honored by the association for admission into the public inclosure when presented by such persons.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 3-17-94; operative 4-18-94 (Register 94, No. 11).

§ 1457. Office Space for Board.

The association shall provide within its grounds adequate office space for use by the Board and its employees and shall provide such necessary office furniture and utilities as may be required for the conduct of the Board's business at such association's meeting.

§ 1458. Right of Board to Information.

The association shall furnish the Board with a daily report of its attendance, pari-mutuel handle, license fee, commissions, and the names of all Cal-bred winners, all horses claimed and the claimants thereof, and any other information the Board may require.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440, 19560 and 19562, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1459. Telephone and Communication Systems.**HISTORY**

1. Repealer filed 9-1-94; operative 10-3-94 (Register 94, No. 35).

§ 1460. Equipment and Apparatus Subject to Approval.

All equipment, devices or apparatus used to officially record, time, photograph, film or videotape the racing program, or used within the pari-mutuel department for the sale, calculation, display of odds, or encasement of tickets, is subject to Board approval.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440, 19560, 19562 and 19592, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1461. Duty to Compile Official Program.

The association shall compile an official program for each racing day which shall contain the names of the horses which are to run in each race together with their respective post positions, age, color, sex, breeding, jockey, trainer, nominator, owners or stable name, racing colors, weight carried, conditions of the race, the order in which each race shall be run, the distance to be run, the value of each race, and the probable odds of each horse.

§ 1462. Duty to Maintain Record of Races.

The association shall maintain a complete record of all races of all authorized race meetings of the same type of racing being conducted by the association, and such records shall be maintained and retained for a period of ten years. This requirement may be met by chart books of Triangle Publications, the U.S.T.A., or the American Quarter Horse Association.

§ 1463. Power to Demand Inspection of Licenses and Documents.**HISTORY**

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1464. Association to Prohibit Unlicensed Participant.**HISTORY**

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1467. Paymaster of Purses.

(a) The association shall appoint a paymaster of purses who shall maintain records as the association and the Board direct. All records shall be separate from those of the Board and are subject to inspection by the Board at any time. The duties of the paymaster of purses or their assistants shall consist of the following:

(1) Maintain records which shall include the name, address, state or country of residence, social security number or federal identification number of each horse owner, trainer, driver, jockey or apprentice jockey participating at the race meeting who has funds due or on deposit in their horsemen's account.

(2) Keep jockey and driver accounts, receive their fees and disburse said fees to the proper claimants.

(3) Verify that the correct claiming price is on deposit with the association before any claim in a claiming race is accepted as official.

(4) Receive and disburse the purses and other awards of each race.

(5) Receive all stakes, entrance money, fines, purchase money in claiming races and other monies that properly come into the paymaster's possession.

(6) Accept money belonging to another association, provided the money is returned within five working days to that association.

(7) Disclose the Cal-bred awards to the respective breed agencies.

(8) Accept and file all required statements of partnerships, assignments of interest, lease agreements, and registrations of authorized agents.

(9) Disburse all monies to the entitled individuals, unless otherwise provided in this section, within 30 calendar days after the meet ends.

(10) Estimate escrow accounts and receive, maintain and disburse funds as directed by the Board.

(11) Deduct from the horse owner's account and deposit into the account of the horse owner's trainer, 10 percent of the purse earned on any horse that finishes first, second or third at thoroughbred race meetings. Such payments shall be disbursed to the trainer and will be available at the office of the paymaster of purses no later than seven days after the race was conducted. Any amounts so paid shall be repaid to the paymaster forthwith by the trainer upon any order requiring redistribution.

(12) Deduct from the horse owner's account, and deposit into the account of the horse owner's trainer, 10 percent of the net purse earned on any horse that finishes first, second or third at quarter horse meetings. Such payments shall be disbursed to the trainer and will be available at the office of the paymaster of purses no later than seven days after the race was conducted. Any amounts so paid shall be repaid to the paymaster forthwith by the trainer upon any order requiring redistribution.

(b) For purposes of this regulation, "purse earned" or "net purse earned" means all amounts earned except in stakes races in which case "purse earned" or "net purse earned" means all amounts earned less any nomination, entry or starter fees paid by the owner.

(c) For purposes of subsections (a)(11) and (a)(12) above, horse owners may elect not to have 10 percent of the purse earned deducted from their account by filing with the paymaster of purses at each racing association at which the owner wishes it to be in effect, a form CHRB-134 (New 1/02), Notification of Exclusion To Trainer 10% Program, which is hereby incorporated by reference. The form CHRB-134 (New 1/02) is available at the office of the paymaster of purses at any race meeting.

(d) A form CHRB-134 (New 1/02) may be filed with the paymaster of purses at any time during a race meeting, and

(1) Shall apply to all horses owned in whole or in part by the owner,
(2) Shall be binding on all licensed owners with an interest in the horse or horses,

(3) Shall apply to all trainers employed by the owner, and

(4) Shall remain in force until written revocation is submitted to the paymaster at the race meeting at which the form CHRB-134 (New 1/02) was submitted.

(e) In addition to the duties in subsection (a), the paymaster of purses shall deduct from the horse owner's account 0.3 percent of the net purse earned by any thoroughbred horse at a thoroughbred racing association or Fair meeting, and deposit into the California Retirement Management Account (CARMA), a charitable trust fund maintained by the horsemen's organization representing thoroughbred horse owners (horsemen's organization), for distribution to California thoroughbred retirement/rehabilitation facilities, which provide livestock care and services to retired thoroughbred horses that competed in thoroughbred races in California.

(1) Thoroughbred horse owners may elect not to have the 0.3 percent deducted from the net purse by filing with the paymaster of purses at each racing association for each race meeting at which the owners wish it to be in effect, a form CHRB-206 (New 09/07), Notification of Exclusion of CARMA Contribution, which is hereby incorporated by reference. The form CHRB-206 (New 09/07) is available at the office of the paymaster of purses at any race meeting.

(2) The horsemen's organization shall distribute CARMA funds at least on an annual basis to retirement/rehabilitation facilities, as determined by the organization. Each such retirement/rehabilitation facility shall be:

(A) A nonprofit corporation or organization.

(B) Exempt or entitled to an exemption from federal or state income taxes.

(C) Approved by the Board.

(3) The horsemen's organization shall file with the Board within 90 days of the close of its fiscal year an audited financial statement of the CARMA.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19420, 19433, 19434, 19440 and 19562, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 1-31-2002; operative 3-2-2002 (Register 2002, No. 5).
2. Amendment filed 4-9-2003; operative 4-9-2003 (Register 2003, No. 15).
3. Amendment of section and NOTE filed 4-8-2008; operative 5-8-2008 (Register 2008, No. 15).

§ 1468. Ambulance Service.

(a) The association shall provide the services of an ambulance and its properly qualified attendants at all times during the running of races at its meeting, or during the hours the association acts under an agreement as an auxiliary training and stabling facility for a host association.

(b) The association shall also provide the services of a horse ambulance at all times during the running of races at its meeting or during the hours the association permits the use of its race course for training purposes.

(c) A means of communication shall be provided by the association between a place of observation of the race course and the place where the required ambulances and their attendants are posted for prompt response in the event of accident to any person or horse.

(d) If the training facility is not subject to the provisions of subsection (a) it shall either meet the requirements of (a) or, in the alternative, submit for approval by the Executive Director or a designated representative, a written plan specifying emergency procedures for accidents at the facility, which shall include but not be limited to:

(1) A list, which includes response times, of at least two emergency medical services to be used by the facility, and at least two alternative emergency medical services to be used in the event the primary service is not available. The list may utilize a combination of ambulance services, fire departments or police services.

(2) The names of one or more facility employees with access to emergency first aid equipment and the location and nature of such equipment.

(3) The names of one or more facility employees who are trained in basic first aid and who hold a current CardioPulmonary Resuscitation (CPR) certification.

(4) The type and location of communication equipment, such as telephone or hand held radios, to be provided as a means for facility staff to contact emergency medical services.

(5) The locations on the facility where emergency medical service information is posted for public access. Such information shall include but not be limited to emergency telephone numbers of ambulance, fire and police services.

(e) The Executive Director or a designated representative shall, within 30 calendar days from the date the plan is received at Board headquarters, approve or disapprove, stating the reasons for disapproval, in writing the emergency plan submitted by the facility.

(1) An emergency procedure plan shall be disapproved if it fails to meet any of the requirements of subsections (d)(1) through (d)(5).

(2) Upon disapproval of an emergency procedure plan by the Executive Director or a designated representative, a revised emergency plan may be submitted to Board headquarters within 10 working days of the date the facility is notified of the disapproval.

(3) The Executive Director or a designated representative shall, within 10 working days from the date the revised plan is received at Board headquarters, disapprove or approve in writing the revised emergency plan submitted by the facility.

NOTE: Authority: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19440 and 19460, Business and Professions Code.

HISTORY

1. Amendment of section filed 10-8-91; operative 10-8-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 52).
2. New subsections (e)(2) and (e)(3) filed 3-24-92; operative 4-23-92 (Register 92, No. 13).
3. Editorial correction of printing error in subsection (e)(1) (Register 92, No. 24).
4. Change without regulatory effect amending subsections (d), (e) and (e)(2)-(3) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).

§ 1469. Safety of Race Course.

The association shall take cognizance of any complaint regarding the safety of its race course or premises, and shall maintain in safe condition the race course and all rails and other equipment required for the conduct of its races.

§ 1470. Accounting Practices and Responsibility.

(a) Every association shall maintain in an approved depository those amounts deducted from the pari-mutuel handle which are retained by the association for distribution for purposes specified in the law, rules or agreements including, but not limited to purses, breeder's awards, and unclaimed pari-mutuel distribution. Each association and its managing officers are jointly and separately responsible to assure the amounts retained from the pari-mutuel handle are distributed under the law, rules or agreements (other than collective bargaining).

(b) Racing associations which have not previously operated, new operators of established associations, or associations which have not demonstrated financial stability, are required to make advanced payments, or

posting a security instrument as a condition preceding the issuance of the racing license.

(c) The Board may, at its discretion, require periodic audits to determine that associations have funds available to meet those distributions for the purposes specified above.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19434, Business and Professions Code.

HISTORY

1. New section filed 7-24-81; effective thirtieth day thereafter (Register 81, No. 30).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

[The next page is 91.]

Article 3.5. Track Safety Standards

§ 1471. General Provisions and Conditions.

(a) Pursuant to Section 19481 of the Business and Professions (B&P) Code, all horse racing associations, fairs, and training facilities used for timed and reported workouts must comply with the provisions of this article.

(b) Notwithstanding the above, these regulations shall not apply to training tracks not used for timed and reported workouts or to any track maintained by a licensed racing association or fair that is not used for conducting licensed races.

(c) The provisions of this article shall not require the removal or replacement of, or substantial modification to, any rail or other object installed prior to May 24, 1994, if in the judgment of the Board there is a showing that compliance with the safety standards can be attained by alternate methods, technologies, programs, practices, means, devices or processes proposed and implemented that will provide equal or superior safety for racing participants.

(d) A request for an approval, pursuant to subsection (c), may be submitted in writing, not less than 90 calendar days prior to the start of the race meeting.

(1) The Board will act upon a request not less than 60 days prior to the start of the race meeting. The Board shall prescribe in writing, the terms under which the approval is granted and said approval shall remain in effect only as long as there is compliance with the terms.

(2) Any approval shall be conditional unless a signed and completed Hold Harmless Agreement, CHRB-120 (new 2/96), which is hereby incorporated by reference, is submitted within five days after the approval is granted.

(3) No approval shall be granted unless a policy for liability insurance is obtained in an amount not less than \$3 million dollars that names the Board as an additional insured; such policy shall remain in effect for the duration of the race meeting. A copy of the certificate of liability insurance shall be submitted with the CHRB-17, Application for License to Conduct a Race Meeting or CHRB-18, Application for License to Conduct a Fair Race Meeting.

(4) The Board may revoke an approval at any time if, in their judgment, there is failure to comply with the terms of the approval.

(5) If the Board disapproves a request for an approval the requestor must comply with the provisions of this article.

(e) Unless the Board determines an emergency situation exists, upon receipt of written notification of revocation of an approval the racing association, fair, or training facility shall have not more than 30 calendar days to achieve compliance with the provisions of this article.

(f) Any association or fair that does not comply with the provisions of this article will not be granted a racing license pursuant to Section 19481.5 of the B&P Code.

(g) Forty-five calendar days prior to the start of a racing association meet, or 30 days prior to the start of a fair meet or annually in the case of a training facility, the track shall be inspected for compliance with the provisions of this article. The Board shall designate a steward to be responsible for enforcing compliance with safety standards as required by this article and the Board-designated steward or other official shall perform the compliance inspection and report the findings to the Board.

NOTE: Authority cited: Sections 19480, 19481 and 19481.5, Business and Professions Code. Reference: Sections 19480, 19481 and 19481.5, Business and Professions Code.

HISTORY

1. New article 3.5 and section filed 5-24-94; operative 5-24-94 (Register 94, No. 21).
2. Amendment of subsections (c)-(d)(1), new subsections (d)(2)-(d)(4) and subsection renumbering, and amendment of newly designated subsections (d)(5)-(d)(6) and subsections (e) and (f) filed 6-20-96; operative 7-3-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 25).
3. Change without regulatory effect amending subsections (d)(4), (f) and (g) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

4. Change without regulatory effect amending subsection (d)(4) filed 6-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).
5. Change without regulatory effect amending section filed 10-14-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 1472. Rail Construction and Track Specifications.

(a) All racing surfaces, including turf courses, shall have an inner rail, and an outer rail or shadow fence designed to meet the same impact standards as a permanent rail.

(1) Racing surfaces used for standardbred racing shall have an inner rail or pylons, and an outer rail or shadow fence designed to meet the same impact standards as a permanent rail.

(2) If pylons are used, no obstacle shall be placed within an area extending 25 feet from the inner boundary of the racing surface.

(b) All rail posts, except portable, auxiliary, or chute rail posts, must be set in concrete at least 6 inches below the racetrack surface and shall be at least 24 inches deep. Permanent rails shall be designed not to collapse or break away when a horse that is running parallel to the rail bumps, lugs or falls into the rail or posts during normal training or racing. Notwithstanding the above, no permanent or portable turf post or rail shall be constructed of fiberglass, poly vinyl chloride (P.V.C.), or wood, and hedges shall not be used as a post or rail.

(c) The height of all outside and inside rails shall be between 38 and 42 inches from the top of the racing surface to the top of the rail.

(d) All rails, and rail post covers shall be maintained with a smooth surface, and without jagged, sharp or irregular edges. All permanent rails and rail post covers shall be firmly secured by means of bolting, welding or other equivalent method.

(e) All permanent inside rail posts shall be of a gooseneck-type design utilizing at least a 24-inch overhang with a continuous smooth elevated cover extending over the posts. Portable rails and posts shall be designed not to collapse or break away when a horse that is running parallel to the rail bumps, lugs or falls into the rail or posts during normal training or racing conditions. This subsection shall not apply to chute extension rails.

(f) All turf course paths, leading from the inside rail of the main course to the turf course, shall be consistent in appearance with surrounding area. No rails shall be installed on turf course paths that lead from the main course to the turf course.

(g) No objects shall be placed within 10 feet from the face of the inside rail. Marker poles that are placed within 10 feet from the face of the inner rail shall be flexible enough to collapse upon impact of a horse and/or rider or driver.

(h) Any concrete drainage ditch within 10 feet of the face of the inside rail must be covered with a material that will support the weight of the horse and rider or driver and at the same time (if needed), and have padding to cushion the impact of the horse and rider or driver.

(i) All rail gate openings shall be designed not to collapse or break away when a horse that is running parallel to the rail bumps, lugs or falls into the rail or post during normal training or racing. Gates shall have a uniform appearance with the contiguous rail, and all gates on inner rails shall be closed and secured during racing and training.

(j) Separate ingress and egress gates or gaps shall be provided for horses to enter and leave the main racetrack. Each ingress and egress gate or gap shall be a minimum of 20 feet wide. Ingress and egress gates and gaps shall be separated by at least 20 feet. All gaps may be available for ingress for two minutes immediately following renovation breaks. The starting gates used for breaking horses during morning training hours shall be placed in a location that will not result in interference or distraction of gate horses from other horses entering or leaving the track during training hours.

(k) All racetrack lighting systems utilized for night racing shall have an emergency back-up system or a preferred electrical current provided by a public utility and incandescent lighting. Any such lighting systems must provide horses, riders, and drivers sufficient lighting to safely leave the track in case of a main power failure.

(l) All licensed racing associations or racing fairs conducting live racing and/or training and other training facilities used for timed and reported workouts shall have:

(1) Permanent track surface elevation grade marks installed at least at every 1/32 mile intervals to provide for a means of maintaining a continuous uniform grade of the track cushion and base (if granite). If the track is designed with the front stretch or backstretch at a different elevation than the other, a continuous grade from one elevation to the other shall be maintained.

(2) A minimum of 2 percent cross slope in the straight-aways and a minimum of 4 percent cross slope in the center of the turns.

(3) Synthetic and polymer or wax-coated sand track surfaces shall be exempt from the requirements of Subparagraph (l)(1)(2) of this rule.

NOTE: Authority cited: Sections 19420, 19440 and 19481, Business and Professions Code. Reference: Section 19481, Business and Professions Code.

HISTORY

1. New section filed 5-24-94; operative 5-24-94 except as shown in text (Register 94, No. 21).
2. New subsections (a)(1)-(2) filed 1-11-95; operative 2-10-95 (Register 95, No. 2).
3. Amendment of subsections (b), (d)-(f), (h)-(i) and new subsections (l)-(l)(2) filed 5-2-95; operative 6-1-95, except subsections 1472(h)-(i) which are operative 7-1-95 (Register 95, No. 18).
4. Change without regulatory effect amending subsections (c), (d), (f), (g), (h), (i), (j) and (k) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
5. Amendment of section and NOTE filed 6-20-2006; operative 7-20-2006 (Register 2006, No. 25).

§ 1473. Renovation of Dirt Racetrack.

(a) Subject to limitations created by periods of inclement weather, all licensed racing facilities and training facilities used for timed and reported workouts which stable between 300 and 1100 racehorses in training shall provide at least one morning break for racetrack surface renovation. Racing facilities which stable more than 1100 racehorses in training shall provide at least two morning breaks to renovate the racetrack surface. For those racing facilities and training facilities with less than 300 racehorses, surface renovation shall be determined by the track maintenance supervisor and designated horsemen's representative stabled at the location.

(b) For all licensed racing facilities and training facilities used for timed and reported workouts where standardbred horses are stabled, racetrack surface renovation shall be determined by the track maintenance supervisor and designated horsemen's representative stabled at the location.

(c) Morning break renovation shall include, but is not limited to, watering, harrowing and/or floating, the racetrack surface at least two-thirds (2/3) of the width of the track from the inside rail to the outside rail of the main track.

(d) Renovation between races shall include, but is not limited to, watering, harrowing and/or floating the racetrack surface at least the length of the starting gate from the inside rail to the outside of the main track for at least the distance of the next race.

NOTE: Authority cited: Sections 19420, 19440 and 19481, Business and Professions Code. Reference: Sections 19420, 19440 and 19481, Business and Professions Code.

HISTORY

1. New section filed 5-24-94; operative 7-23-94 (Register 94, No. 21).
2. Amendment of section heading and subsections (a)-(c) and new subsection (d) filed 5-2-95; operative 6-1-95 (Register 95, No. 18).
3. Change without regulatory effect amending subsection (c) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1474. Maintenance of Dirt Racetrack.

(a) All licensed racing associations or fairs conducting live racing and/or training, and other training facilities used for timed and reported workouts, shall develop and implement a written policy regarding their track safety maintenance program to be submitted with their license application for Board review 90 days prior to the commencement of the race meeting. The written policy shall provide for:

(1) regular and continuous maintenance of the racing surface under Rule 1473 of this division;

(2) a schedule for maintenance of equipment, track grade, elevations, racetrack renovation, and watering;

(3) analysis of the composition of the racetrack soil sampled every twenty 20 feet and every sixteenth of a mile, and

(4) the name of the person responsible for supervision of the maintenance of the racetrack safety standards.

NOTE: Authority cited: Sections 19420, 19440 and 19481, Business and Professions Code. Reference: Sections 19481, 19481.5 and 19488, Business and Professions Code.

HISTORY

1. New section filed 5-24-94; operative 7-23-94 (Register 94, No. 21).
2. Amendment of section heading and subsection (a)(2) and repealer of subsection (a)(5) filed 5-2-95; operative 6-1-95 (Register 95, No. 18).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1475. Golf Course In The Infield of The Racetrack.

If golfing activities are conducted in the infield of the racetrack operated by a licensed racing association, fair or training facility used for timed and reported workouts, all racing surfaces must be inspected prior to racing or training and the licensed racing association, fair, or training facility used for timed and reported workouts shall ensure that all golf balls are removed from all racing surfaces. No licensed racing association, fair, or training facility used for timed and reported workouts shall permit any golfing activity in the infield of the racetrack during the hours of training or racing unless the golf course meets the following criteria:

(a) Access to the course is by way of a tunnel or other means where golfers do not physically cross the track.

(b) There is a minimum of 135 feet between the inside track rail and the golf course.

NOTE: Authority cited: Sections 19420, 19440 and 19481, Business and Professions Code. Reference: Sections 19420, 19440 and 19481, Business and Professions Code.

HISTORY

1. New section filed 5-24-94; operative 5-24-94 (Register 94, No. 21).

Article 4. Occupational Licenses

§ 1480. License Required.

HISTORY

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1481. Occupational Licenses and Fees.

No person required to be licensed shall participate or attempt to participate in a race meeting without holding a valid license authorizing that participation.

(a) A person acting in any capacity within the restricted area of an inclosure, simulcast facility or auxiliary stabling area shall procure the appropriate license(s) and pay the fee required.

(b) A person acting in any of the following capacities shall procure the appropriate license(s) and pay the fee required:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (1) Horse Owner by Open Claim | \$250 |
| (2) Officer, Director, Partner, or any individual or person who holds 5% or more of the outstanding shares of a racing association, simulcast service supplier or totalizator company | \$200 |
| (3) Horse Owner | \$150 |
| (4) Trainer, Assistant Trainer, Driver, Jockey, Apprentice Jockey, Jockey Agent | \$150 |
| (5) Veterinarian | \$150 |
| (6) Steward, Associate Steward, Steward (Veterinary Service), Simulcast Facility Supervisor, Assistant Simulcast Facility Supervisor, Racing Official, Administrative or Managerial personnel including General Manager of a racing association, simulcast organization or an intrastate guest association, who exercise control over other licensees, horse racing, pari-mutuel wagering or simulcast operations, or whose duties routinely require access to restricted areas of the inclosure | \$150 |

- (7) Bloodstock Agent \$150
- (8) Valet, Jockey Room or Drivers' Room Attendant or Custodian or Service Person, Colors Attendant, Paddock Attendant \$75
- (9) Assistant to a Racing Official or Official, Assistant General Manager of a racing association, simulcast organization or an intrastate guest association, Assistant Starter, Assistant to the Veterinarian, Assistant Manager, Announcer, Paymaster of Purses, Superintendent, Starting Gate Driver, Flagman, Marshal, Stewards' Aide . . . \$75
- (10) Exercise Rider, Pony Rider, Outrider \$75
- (11) Horseshoer, Stable Agent, Vendor or Vendor's Employee when duties require access to the restricted area, Stable Foreman \$75
- (12) Pari-mutuel Employee, Totalizator Technician, Video Operator, Photofinish Operator \$75
- (13) Security Officer, Security Guard, Stable Gateman, Fire Guard, Security Investigator \$75
- (14) Clerical Employee or Uncategorized Employee of a racing association, intrastate guest association, simulcast organization, simulcast service supplier, totalizator company, horsemen's organization or concessionaire when employed in a restricted area \$75
- (c) A person acting in the capacity of Backstretch Event Personnel, Groom, Stable Employee or Stable Assistant shall procure the appropriate annual license. The fee for an original license is \$35, and the annual renewal of license is \$20.

(d) A person acting in the capacity of Authorized Agent shall register an authorized agent agreement and registration of authorized agent and pay a fee of \$25 for each registration.

(e) A person or persons electing to conduct racing operations by use of a Stable Name, or stable name group, shall register the Stable Name, or stable name group, and pay a fee of \$300.

(f) A person or persons conducting racing operations as a syndicate, an entity running under a stable name group or as a partnership having more than ten general partners or having one or more limited partners shall register the syndicate, entity running under a stable name group or partnership as a multiple ownership and pay a fee of \$300.

(g) A person participating in any capacity required to be licensed under this rule who participates or attempts to participate at a mule racing meeting shall procure an annual Mule Racing Participant license and pay an annual fee of \$25. A license for participating in a mule racing meeting is valid only at mule racing meetings and any license otherwise valid for horse racing meetings is not valid for mule racing meetings.

(h) A person whose license-identification card is lost, destroyed or mutilated shall procure a replacement license-identification card and pay a fee of \$15.

(i) A person who elects to participate in the Association of Racing Commissioners International (ARCI) Licensing Reciprocity Program shall pay the associated costs charged by the ARCI and the Federal Bureau of Investigation.

(j) The date the payment of the required fee is received and recorded by the Board is the effective date of issuance of a continuous occupational license for the capacity in which licensed. The fees required herein are for the entire period for which the issued license is to be valid.

NOTE: Authority cited: Sections 19440, 19510, 19520 and 19704, Business and Professions Code. Reference: Sections 19510, 19520 and 19704, Business and Professions Code.

HISTORY

1. Repealer and new section filed 12-31-82; designated effective 1-1-83 pursuant to Government Code section 11346.2(d) (Register 83, No. 1).
2. Editorial correction of subsection (g) (Register 83, No. 8).
3. Amendment increasing fees filed 12-30-88; operative 1-1-89 (Register 89, No. 2).
4. Amendment of subsection (f) changing "three" to "five" and adding "as a multiple ownership" filed 2-14-89; operative 2-14-89 (Register 89, No. 8).
5. Amendment of subsection (f) changing "five" to "ten" filed 7-6-89; operative 8-5-89 (Register 89, No. 27).

6. Amendment of subsection (i) filed 12-13-90; operative 1-12-91 (Register 91, No. 4).
7. Amendment of subsections (b)(6), (b)(9) and NOTE, new subsection (i) and subsection relettering filed 8-5-93; operative 9-7-93 (Register 93, No. 32).
8. Amendment of first paragraph and subsections (a), (b)(2), (b)(6), (b)(9), (b)(11), (b)(12), (b)(14) and (j) filed 1-5-94; operative 2-4-94 (Register 94, No. 1).
9. Amendment of subsections (b)(6), (b)(9) and (b)(14) filed 9-12-94; operative 10-12-94 (Register 94, No. 37).
10. Amendment of subsections (b)(9) and (i) filed 5-31-95; operative 6-30-95 (Register 95, No. 22).
11. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
12. Amendment of subsection (c) filed 5-30-2007; operative 6-29-2007 (Register 2007, No. 22).
13. Amendment of subsections (e)-(f) and amendment of NOTE filed 7-10-2008; operative 8-9-2008 (Register 2008, No. 28).

§ 1482. Employment of Unlicensed Person.

No association, owner, trainer or any other licensee acting as an employer within the inclosure at an authorized meeting, shall employ within the inclosure or within any auxiliary stable area, any person required to be licensed by the Board, until such association, owner, trainer or other employer determines that such person required to be licensed has been issued a valid license by the Board or has made application for such license. No association shall permit any owner, trainer, jockey or driver to own, train, ride or drive on its premises during a recognized meeting unless such owner, trainer, jockey or driver has received a license to do so from the Board. The association or prospective employer may demand for inspection the license of any person participating or attempting to participate at its meeting and the association may demand for inspection the documents relating to any horse on its grounds.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Section 19510, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1483. Application for License.

(a) An applicant for a license shall apply in writing on the application forms furnished by the Board. Every applicant for an original license shall provide two (2) or more complete sets of fingerprints on regulation forms. Every license identification card issued by the Board shall include a current Board photograph of the licensed person.

(b) The fingerprint requirement will be waived for an owner's license, if the applicant holds an owner's license in good standing from a racing jurisdiction that requires fingerprints as part of their license application, provided a Fingerprint Affidavit, CHRB-118 (New 1/97), hereby incorporated by reference, is completed. CHRB-118 is available at all CHRB offices.

NOTE: Authority cited: Sections 19460 and 19510, Business and Professions Code. Reference: Sections 19460, 19510, and 19520, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 3-26-91; operative 4-25-91 (Register 91, No. 16).
3. Amendment of section and NOTE filed 1-5-93; operative 2-4-93 (Register 93, No. 2).
4. Amendment filed 5-1-97; operative 5-31-97 (Register 97, No. 18).

§ 1484. Evidence of Unfitness for License.

If any applicant for a license or any licensee is under suspension, set down, ruled off, excluded from the inclosure, or otherwise barred from any racing occupation or activity requiring a license, it is prima facie evidence that he or she is unfit to be granted a license or unfit to hold a license or participate in racing in this State as a licensee during the term of any suspension or exclusion from racing imposed by any competent racing jurisdiction.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19460, 19461 and 19510, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1485. License Subject to Conditions and Agreements.

(a) Every license is subject to the conditions and agreements contained in the application and to the Board rules in this Division.

(b) Every license issued by the Board remains the property of the Board.

(c) Possession of a license does not confer any right upon the holder thereof to employment at or participation in a race meeting or to be within the inclosure.

(d) The Board may place conditions on any license it issues. All licenses shall strictly comply with any condition imposed by the Board.

NOTE: Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19460, 19510 and 19520, Business and Professions Code.

HISTORY

1. New subsection (d) filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment of section and NOTE filed 1-6-94; operative 2-7-94 (Register 94, No. 1).

§ 1486. Term of License.

(a) Every occupational license, original or renewal, granted by the Board under this Article, other than a license as a groom, stable employee, stable assistant, backstretch event personnel and mule racing participant shall expire in its third year on the last day of the birth month of the licensee.

(b) Every original occupational license as groom, stable employee, stable assistant, backstretch event personnel and mule racing participant shall expire on the last day of the calendar year in which it is issued. Such original license shall be automatically extended to expire on the last day of the birth month of the licensee. Renewal licenses shall expire on the last day of the birth month of the licensee on an annual basis.

NOTE: Authority cited: Sections 19440 and 19704, Business and Professions Code. Reference: Sections 19510, 19520, 19521 and 19704, Business and Professions Code.

HISTORY

1. Amendment of section filed 8-7-91; operative 9-6-91 (Register 91, No. 50).
2. Change without regulatory effect repealing subsection (a) designator and subsections (b) and (c) and amending remaining text filed 4-1-96 pursuant to section 100, title 1, California Code of Regulations; operative 5-1-96 (Register 96, No. 14).
3. Amendment of section and NOTE filed 10-24-2006; operative 10-24-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 43).
4. Amendment filed 10-24-2007; operative 11-23-2007 (Register 2007, No. 43).

§ 1486.5. Term of Registration.

Every Registration, such as a Stable name, Syndication, Partnership, Multiple Ownership, Authorized Agent or Trust granted by the Board under this article shall be valid for three years and shall expire on the 31st day of December of the expiration year.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. New section filed 12-10-90; operative 1-9-91 (Register 91, No. 4).

§ 1487. Address of Licensees.

Each licensee, applicant for license, or registrant of the Board shall file with the Board his permanent and his current mailing address and shall report in writing to the Board any and all changes to addresses, giving both his old and his new address.

§ 1488. Temporary Occupational License.

(a) Pending completion of an investigation of the qualifications and fitness of an applicant for license, any initial occupational license granted by the Board is temporary, shall carry no presumption of the qualifications or fitness of the applicant, and may be summarily terminated by the Board. Unless terminated earlier, a temporary license shall be made permanent upon completion of an investigation by the Board of all facts relative to the applicant's qualifications, and a determination that the applicant is fit to hold a license.

(b) A temporary license shall be terminated if the applicant's fingerprints, completed application(s), and such other documentation as may

be required for license are not submitted to the Board within 45 calendar days following the date of issuance of the license. In the event of termination of a temporary license, the occupational license fee shall be forfeited. Termination of temporary license is without prejudice to the applicant unless the Board finds that the applicant has made a material misrepresentation or false statement to the Board to obtain a license privilege.

(c) No more than one temporary license shall be issued to an applicant without that applicant first submitting to the Board such fingerprints and completed applications as required under this article.

NOTE: Authority cited: Sections 19440, 19460, 19461, and 19520, Business and Professions Code. Reference: Sections 19460 and 19510, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 1-8-93; operative 2-8-93 (Register 93, No. 2).

§ 1489. Grounds for Denial or Refusal of License.

The Board, in addition to any other valid reason, may refuse to issue a license or deny a license to any person:

(a) Who has been convicted of a crime punishable by imprisonment in a California state prison or a federal prison, or who has been convicted of a crime involving moral turpitude.

(b) Who has been convicted of a crime in another jurisdiction which if committed in this state would be a felony.

(c) Who has made any material misrepresentation or false statement to the Board or its agents in his or her application for license or otherwise, or who fails to answer any material question on an application for a license.

(d) Who is unqualified to engage in the activities for which a license is required.

(e) Who fails to disclose the true ownership or interest in any or all horses as required by any application.

(f) Who is subject to exclusion or ejection from the racing inclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering.

(g) Who has committed an act involving moral turpitude, or intemperate acts which have exposed others to danger, or acts in connection with horse racing and/or a legalized gaming business which were fraudulent or in violation of a trust or duty.

(h) Who has unlawfully engaged in or who has been convicted of possession, use or sale of any narcotic, dangerous drug, or marijuana.

(i) Who is not permitted by any law to engage in the occupation for which the license is sought.

(j) Who has violated, or who aids, abets or conspires with any person to violate any provision of the rules or the Horse Racing Law.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19460, 19510 and 19572, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment of subsection (a), new subsection (b) and relettering, and amendment of newly designated subsection (g) filed 1-6-93; operative 2-5-93 (Register 93, No. 2).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1490. Restrictions, Conditions or Endorsements.**HISTORY**

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1491. Examinations.

The Board may require the applicant for any license to demonstrate his knowledge, qualifications and proficiency for the license applied for by such examination as the Board may direct.

§ 1492. Recommendation of Stewards.**HISTORY**

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1493. Refusal Without Prejudice.

A refusal to issue a license (as distinguished from a denial of a license) to an applicant by the Board at any race meeting is without prejudice, and the applicant who has been refused for reasons other than license certification testing may reapply for a license at any subsequent or other race meeting. In all cases an applicant may appeal such refusal to the Board for hearing upon his or her qualifications and fitness for the license.

NOTE: Authority cited: Sections 19440, 19460 and 19520, Business and Professions Code. Reference: Sections 19440, 19460 and 19520, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 11-17-93; operative 12-17-93 (Register 93, No. 47).

§ 1494. Effect of Denial or Revocation of License.**HISTORY**

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1495. Re-Hearing After Denial of License.

Any person who has had his license denied may petition the Board to reopen the case and reconsider its decision upon a sufficient showing that there is now available evidence which could not, with the exercise of reasonable diligence, be produced at the hearing. Any such petition must be filed with the Board no later than 30 days after the effective date of the Board's decision in the matter. Any person who has been denied a license by the Board may not file a similar application for license until one year from the effective date of the decision to deny the license.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Section 19510, Business and Professions Code; and Sections 11521 and 11522, Government Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1496. Financial Responsibility of Applicants.

Applicants for license as horse owner or trainer must submit satisfactory evidence of their financial stability and their ability to care for and maintain the horses owned and/or trained by them when such evidence is requested by the Board.

§ 1497. Confidentiality of Applications.

(a) Except as set forth in Subsection (b) of this rule, all information contained on an application for license filed with the Board and all subsidiary information required by the Board in conjunction with such application, may be disclosed to the public.

(b) The following information when contained on an application for license, or when required by the Board as subsidiary information in conjunction with such application, is confidential and shall not be disclosed to the public except in compliance with an order of the Board or any legal order of any court or other agency having jurisdiction of the enforcement of any state or federal laws.

(1) Personal addresses, personal residences and personal telephone numbers.

(2) Personal identification numbers such as social security numbers, federal identification numbers, driver's license numbers, and bank account numbers.

(3) Statements of personal worth and personal financial data used to establish the applicant's personal qualifications for license.

(4) Information regarding minor children.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19435, 19440, 19460 and 19466, Business and Professions Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 8-5-93; operative 9-7-93 (Register 93, No. 32).

§ 1498. Physical Examination.

All jockeys, apprentice jockeys, and drivers must pass a physical examination at least once a year before the commencement of the first race meeting of the year in which such jockey, apprentice jockey or driver in-

tends to participate, or at such other time as the Board may direct. Such examination will be given by a doctor designated or approved by the Board, and the examination shall include a visual acuity examination and a hearing examination. The Board or the stewards may require that any jockey, apprentice jockey or driver be re-examined at any time, and the Board or the stewards may refuse to allow any jockey, apprentice jockey or driver to ride or drive until he has successfully passed such examination.

§ 1499. Qualifications for Jockey.

No person under 16 years of age shall be granted a jockey's license nor a license as apprentice jockey. No person whose riding weight at the time of application exceeds 125 pounds shall be licensed as a jockey or apprentice jockey. No person who has never ridden in a race at a recognized meeting shall be granted a license as jockey or apprentice jockey; provided, however, that upon the recommendation of the stewards the Board may issue a temporary license to or otherwise grant permission to such person for the purpose of riding in not more than four races to establish the qualifications and ability of such person for the license.

§ 1500. Apprentice Jockey.

(a) An apprentice jockey is a race rider who has ridden less than 40 winners or less than two years since first having been licensed in any racing jurisdiction, and who otherwise meets the license qualifications of a jockey.

(b) The apprenticeship of an apprentice jockey shall automatically terminate one year from the date of his or her fifth winning ride, or on the date of his or her (40th) winning ride, whichever comes later. No apprenticeship shall extend for more than two years from the date of the fifth winning mount, except for good cause the Board may extend the termination date of an apprenticeship or amend the conditions under which the apprenticeship is granted.

(c) Any combination of Thoroughbred, Appaloosa, Arabian or Paint races at authorized race meetings in the United States, Canada or Mexico which are reported in the Daily Racing Form or other recognized racing publications shall be considered in determining eligibility for license as an apprentice jockey; provided, however, that any person who has ridden as a licensed jockey in any racing jurisdiction shall have the burden to establish that the granting of an apprentice jockey license to him or her is in the best interests of the rider and of Thoroughbred, Appaloosa, Arabian or Paint racing in this State. Nothing herein shall prohibit an apprentice jockey contract between the apprentice and a qualified employer.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19440 and 19460, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 3-18-97; operative 4-17-97 (Register 97, No. 12).

§ 1501. Worker's Compensation Insurance Required.

No person may be licensed as a trainer, owner, trainer-driver, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless his liability for worker's compensation has been secured in accordance with the Labor Code of the State of California and until evidence of such security for liability is provided the Board. Should any such required security for liability for worker's compensation be cancelled or terminated, any license held by such person shall be automatically suspended and shall be grounds for revocation of the license. The trainer of a public stable shall provide evidence that the policy of insurance securing his liability for worker's compensation has been endorsed or amended to include, as an additional insured, each person for whom he trains horses to the extent that such person is exposed to liability as the employer of a jockey, unless such person has procured coverage for such exposure and has furnished evidence of such coverage to the Board.

HISTORY

1. Amendment filed 10-6-78; effective thirtieth day thereafter (Register 78, No. 40).

§ 1502. Program Trainer Prohibited.

No licensed trainer, for the purpose of avoiding the requirements for workmen's compensation insurance as set forth in this article, shall place any horse in the care of or attendance of any other person.

§ 1503. Qualifications for License as Trainer or Assistant Trainer.

(a) Except as otherwise provided under this article, an applicant for an original license as trainer or assistant trainer shall pass a trainers examination before issuance of a license. An applicant shall:

(1) Pass the written, oral and practical portions of the examination as prescribed by the Board and administered by its agents.

(b) A score of 80% for each portion constitutes a passing grade for the examination.

(c) An applicant who fails the written, practical or oral portion of the examination may apply for reexamination and take the failed portion after a period of at least one month, but not more than six months, from the date of the failed examination.

(1) An applicant who fails to apply for reexamination under subsection (c) must reapply for license as trainer or assistant trainer, and reexamine under subsections (a) and (b).

(2) The examination for license as trainer or assistant trainer shall be scheduled not less than once a month at a time and location designated by the Board.

(d) Notwithstanding the above, an applicant who is currently licensed by another racing jurisdiction as a trainer or assistant trainer, and has held the license for a minimum of one year in good standing, shall make an application for license as trainer or assistant trainer under Rules 1481 and 1483 of this division. The applicant shall appear before the Board of Stewards and they may subject him/her to any portion of the examination.

(1) An applicant who fails either the written, practical or oral portion of the examination administered under subsection (d) may reapply for reexamination and take the failed portion after a period of at least one month, but not more than six months, from the date of the failed examination.

(2) An applicant who fails to apply for reexamination under subsection (d)(1) must reapply for license as trainer or assistant trainer, and reexamine under subsections (a) and (b).

(e) An individual who is currently licensed as a trainer or assistant trainer who wishes to change his or her license from harness to other types of flat racing, or other types of flat racing to harness, is subject to the examination under subsections (a) and (b).

(1) An applicant who fails either the written, practical, or oral portion of the examination administered under subsection (e) may reapply for reexamination and take the failed portion after a period of at least one month, but not more than six months, from the date of the failed examination.

(2) An applicant who fails to reapply for reexamination under subsection (e)(1) must reapply for change of license and reexamine under subsections (a) and (b).

NOTE: Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19420, 19440, 19460 and 19510, Business and Professions Code.

HISTORY

1. New section filed 4-5-94; operative 5-5-94 (Register 94, No. 14).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1504. Qualifications For License As Farrier.

Except as otherwise provided under this article, an applicant for an original license as a farrier shall take and pass a Farriers Examination prior to issuance of a license. An applicant shall:

(a) Complete and pass the written and the practical portions of the examination as prescribed by the Board and administered by its agents.

(b) A score of 80% shall constitute a passing grade on the written portion of the Farriers Examination.

(c) A passing score in all areas of the practical examination, which is weighted pass/fail, shall constitute a passing grade on the practical portion of the Farriers Examination.

(d) An applicant who fails one or both portions of the Farriers Examination may apply to retake the failed portion at the next regularly scheduled Farriers Examination.

NOTE: Authority cited: Sections 19440, 19460 and 19520, Business and Professions Code. Reference: Sections 19420, 19440, 19460, 19510 and 19520, Business and Professions Code.

HISTORY

1. New section filed 7-21-94; operative 8-22-94 (Register 94, No. 29).

§ 1505. Qualifications for License as Horse Owner.

(a) No person may be licensed as a horse owner who is not the owner of record of a properly registered race horse which is in the care of a licensed trainer, or

(1) who does not have an interest in such race horse as a co-owner, part owner, or lessee, or

(2) who is not the responsible managing employee of a corporation or a limited liability company (Corporations Code section 17000 et seq.) which is the legal owner of such horse.

(b) No person licensed by the Board as a jockey, apprentice jockey, racing official, assistant starter or veterinarian's assistant shall be licensed also as a horse owner.

(c) A horse owner's license shall be granted to individual natural persons only.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19460 and 19520, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 8-14-98; operative 9-13-98 (Register 98, No. 33).

§ 1506. Horse Ownership by Corporation or Limited Liability Company.

If the legal owner of any race horse is a corporation or a limited liability company (Corporations Code section 17000 et seq.), the corporation or limited liability company shall appoint one or more responsible managing employee(s) who, if qualified, may be granted a license as Horse Owner. Such employee accepts and assumes all responsibilities of an owner.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19460 and 19520, Business and Professions Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 8-14-98; operative 9-13-98 (Register 98, No. 33).

§ 1507. Partnerships.

All general partners in the partnership owning a race horse assume equal responsibilities of ownership, and all such general partners are required to be licensed, irrespective of the percentage of partnership held. No limited partner may be granted a license as horse owner.

§ 1508. Statements of Partnerships.

(a) All statements of partnerships and the relative proportion of ownership interest, the terms of sales with contingencies, arrangements, or leases, shall be filed with the paymaster of purses of the association and with the Board, and shall declare:

(1) to whom winnings are payable,

(2) in whose names the horse is run if more than three persons comprise the partnership, and

(3) with whom rests the power of entry.

(b) The part owner of any horse may not assign his share or any part of it without the written consent of the other partners. The consent shall be filed with the paymaster of purses.

(c) No part owner or lessee of a racehorse is qualified for a license as horse owner until he has complied with this rule.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420, 19440, 19460 and 19461, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1509. Use of License Required.

Every licensee, in order to maintain his qualifications for any license held by him, must have been regularly engaged in the occupation for which the license was issued for no less than 21 working or racing days during the term of the license. Should a licensee not be so engaged for the period required, the Board may require that such licensee or applicant for renewal of a license re-establish his qualifications for such license.

§ 1510. Knowledge of Rules.

Every licensee, in order to maintain his qualifications for any license held by him, shall be familiar with and knowledgeable of the rules including all amendments thereto. Every licensee is presumed to know the rules.

Article 5. Racing Officials

§ 1520. Racing Officials.

The racing officials of a race meeting, unless otherwise ordered by the Board, are: the stewards, the associate judges, the placing judges, the paddock judge, the patrol judges, the starter, the clerk of scales, the official veterinarian, the racing veterinarian, the horse identifier, the horse-shoe inspector, the timers, and the clerk of the course.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. Amendment filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment filed 4-12-79; effective thirtieth day thereafter (Register 79, No. 15).

§ 1521. Responsibility to the Board.

The racing officials are strictly responsible to the Board for the performance of their respective duties, and they shall promptly report to the Board or its stewards, any violation of the rules and regulations of the Board coming to their attention or of which they have knowledge. Any racing official who fails to exercise due diligence in the performance of his duties shall be relieved of his duties by the stewards and the matter referred to the Board.

§ 1522. Employment of Racing Officials.**HISTORY**

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1523. Racing Officials Subject to Approval.

Every racing official is subject to prior approval by the Board before being eligible to act as a racing official at a race meeting. At the time of making application for a racing license the association shall nominate the racing officials other than the racing officials appointed by the Board and after issuance of license to the association there shall be no substitution of any racing official except with approval of the stewards or the Board.

NOTE: Authority cited: Section 19440 and 19460, Business and Professions Code. Reference: Section 19510, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1524. Nomination of Racing Officials.**HISTORY**

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1525. Racing Officials Appointed by the Board.

The Board shall appoint the following racing officials for a race meeting: The stewards, the official veterinarian, and the official horse identifier.

HISTORY

1. Amendment filed 4-11-78 as procedural and organizational; designated effective thirtieth day thereafter (Register 78, No. 15).

§ 1526. Selection of Stewards.**HISTORY**

1. Repealer filed 4-11-78 as procedural and organizational; designated effective thirtieth day thereafter (Register 78, No. 15).

§ 1527. General Authority of Stewards.

The stewards have general authority and supervision over all licensees and other persons attendant on horses, and also over the inclosures of any recognized meeting. The stewards are strictly responsible to the Board for the conduct of the race meeting in every particular.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding NOTE filed 4-16-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 16).

§ 1528. Jurisdiction of Stewards to Suspend or Fine.

The stewards' jurisdiction in any matter commences at such time as entries are taken for the first day of racing at the meeting and extends until thirty (30) days after the close of such meeting. However, the Executive Director or the Board may delegate the authority to adjudicate any matter occurring at any racing meeting to another Board of Stewards at any time. The stewards may suspend the license of anyone whom they have the authority to supervise or they may impose a fine or they may exclude from all inclosures in this State or they may suspend, exclude and fine. All such suspensions, fines or exclusions shall be reported immediately to the Board.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. Amendment filed 10-20-81; effective thirtieth day thereafter (Register 81, No. 43).
2. Amendment filed 11-29-94; operative 12-29-94 (Register 94, No. 48).

§ 1529. Referral to the Board.

The stewards may refer any matter within their jurisdiction to the Board when the penalty the stewards have jurisdiction to impose is insufficient when a hearing cannot be held under the conditions or in the manner prescribed, when a hearing is impractical due to conclusion of the meeting, or for other good and sufficient cause, and they may order the suspension of the licensee pending further Order of the Board. In such event, the Board shall accept the matter for hearing and adjudication or such other action as the Board deems to be in the best interests of justice.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19460 and 19461, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1530. Cases Not Covered by Rules and Regulations.

Should any case occur which may not be covered by the Rules and Regulations of the Board or by other accepted rules of racing, it shall be determined by the stewards in conformity with justice and in the interest of racing.

§ 1531. Vacancy Among Racing Officials.

Where a vacancy occurs among the racing officials the stewards shall fill the vacancy immediately. Such appointment is effective until the vacancy is filled in accordance with the rules.

§ 1532. Payment of Fines.

(a) All fines imposed by the stewards shall be paid by the person upon whom such fine has been imposed to the paymaster of purses within seven calendar days after imposition and no person shall fail to pay a fine within the time limit it is due except when the imposition of such fine is ordered stayed by the stewards, the Board or a court having jurisdiction.

(1) Official ruling shall state that fines shall be paid within seven calendar days from the date of the ruling, or the license of the person upon whom the fine has been imposed shall be suspended.

(b) On the first working day of each week of the meeting, the paymaster of purses shall provide the Board with a record of the full name of any

person at the meeting upon whom a fine was imposed, the steward's ruling number, the date upon which the fine was imposed, and the date upon which the fine was paid. Within ten calendar days after the conclusion of the meeting the paymaster shall forward the collected fines and the record of such fines to the Executive Director of the Board.

(1) A paymaster of purses who receives payment for a fine imposed at a meeting other than the one at which the fine is paid shall record the full name and occupational license number of the person upon whom the fine was imposed, the racetrack at which the fine was imposed, the date and number of the steward's ruling, and the date upon which the fine was paid. The paymaster of purses shall forward the collected fines and the record of such fines in accordance with subparagraph (b) of this rule.

(c) Any fine imposed by the Board shall be paid within seven calendar days to the Executive Director of the Board or as may be otherwise ordered by the Board.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19461 and 19640, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 1-4-94; operative 2-3-94 (Register 94, No. 1).
3. Change without regulatory effect amending subsections (b)-(c) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).

§ 1533. Record of Payment of Fine.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1534. Fines Imposed by the Board.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1535. Majority Votes Required.

HISTORY

1. Amendment filed 4-11-78 as procedural and organizational; designated effective thirtieth day thereafter (Register 78, No. 15).
2. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1536. Stewards' Minutes.

(a) The stewards shall maintain minutes and records of all proceedings before the stewards that shall contain:

- (1) the record of votes,
- (2) a record of all actions taken, and
- (3) the penalties imposed along with the reasons for the actions.

A majority vote of the stewards shall govern and in the event of a split vote, each steward shall file a separate report on the matter. The stewards shall submit their original minutes to the Executive Director weekly, and shall deliver a copy of their minutes to each member of the Board.

(b) A report of all on-track accidents involving jockeys or drivers on form Jockey/Driver Accident Report CHRB-201 (New 07/06), which is hereby incorporated by reference, shall be attached to the stewards' minutes.

NOTE: Authority cited: Sections 19420, 19440 and 19481.3(e), Business and Professions Code. Reference: Sections 19432, 19440 and 19481.3(e), Business and Professions Code.

HISTORY

1. Amendment filed 4-11-78 as procedural and organizational; designated effective thirtieth day thereafter (Register 78, No. 15).
2. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
3. Change without regulatory effect amending section heading and text filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
4. Amendment of section and NOTE filed 1-11-2007; operative 2-10-2007 (Register 2007, No. 2).

§ 1537. Record and Transcript of Hearing.

(a) A verbatim record shall be made of all hearings before the stewards in any matter other than those relating solely to riding infractions where the penalty imposed by the stewards is ten (10) days or less suspension, or those relating to license application recommendations.

(b) Notwithstanding subsection (a), and at the stewards' discretion, the racing association shall provide either a certified court reporter or elec-

tronic recording equipment to record all hearings. Such recording equipment shall include, but not be limited to, tape recorder(s), at least three (3) microphones and a sufficient supply of recording tapes.

(c) The cost of such reporter and recording equipment shall be assumed by the racing association conducting the racing meeting. The taped recording(s) shall be stored and maintained by the Board for a minimum of sixty (60) days after the initial hearing or a minimum of sixty (60) days after an appeal is heard and decided by the Board.

(d) Upon the request of the Executive Director or his/her designee, the racing association shall furnish an original and two copies of the hearing transcript to the Executive Director.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19432 and 19440, Business and Professions Code.

HISTORY

1. Amendment of section heading, text and new NOTE filed 11-29-93; operative 12-29-93 (Register 93, No. 49).
2. Change without regulatory effect amending subsection (d) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
3. Amendment of subsections (a) and (c) filed 10-15-96; operative 11-14-96 (Register 96, No. 42).

§ 1538. Duty of Disclosure.

It is the duty and obligation of every licensee to make full disclosure to the Board at a hearing before the Board or to the stewards at a hearing before the stewards of any knowledge he possesses of a violation of any racing law or of the rules and regulations of the Board, and no person may refuse to testify before the stewards at any hearing on any relevant matter within the authority of the stewards, except in the proper exercise of a legal privilege, nor shall any person testify falsely before the stewards.

§ 1539. Representation at Hearing.

Every person who is called to testify before the stewards is entitled to have counsel or an observer of his choosing present at the hearing; provided, however, that such counsel or observer shall only participate under such conditions or in such manner as the stewards may direct.

§ 1540. Referral to the Board Without Hearing.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1541. Power to Order Examination of Horse.

At any time the stewards may order an examination of any horse within the inclosure, by such persons as they see fit, and may order the examination of any ownership papers, certificates, documents or eligibility, contracts or leases pertaining to such horse, and they may require an affidavit of ownership or interest in any horse.

§ 1542. Power to Refuse Entry and Deny Eligibility.

For good cause, the stewards may refuse the entry to any race, or declare ineligible to race and order removed from the premises, any horse.

§ 1543. Stewards to Determine Fouls and Extent of Disqualification.

The stewards shall determine the extent of disqualification in cases of fouls or riding or driving infractions. They may place the offending horse behind such other horses as in their judgment it interfered with, or they may place it last.

§ 1544. Calling off Race.

(a) If the stewards determine a race cannot start before midnight or cannot be conducted in accordance with the Board's rules and regulations, they shall cancel and call off such race.

(b) The stewards may declare a race no contest if mechanical failure or interference during the running of the race affects the majority of horses in such race.

(c) Any wagers on races called off, canceled, or declared no contest shall be refunded, and no purse, prize or stakes shall be awarded.

(d) If a race is called off, canceled, or declared no contest, any submitted claims shall be void.

(e) A race shall be canceled if no horse covers the course.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 11-22-2006; operative 12-22-2006 (Register 2006, No. 47).

§ 1545. Substitution of Jockey or Trainer.

(a) In the event a jockey who is named to ride on a mount in a race is unable to fulfill his engagement and is excused by the stewards, the trainer of the horse may select a substitute jockey or, if no satisfactory substitute jockey is available, may elect that the stewards declare the horse from the race.

(b) In the absence of the trainer of the horse, the stewards may place the horse in the temporary charge of a substitute trainer of their selection.

§ 1546. Complaints Against Officials.

Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the Board by the stewards together with a report of the action taken or the recommendation of the stewards. Complaints against any steward shall be made in writing to the Executive Director of the Board and signed by the complainant.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420, 19440 and 19510(c), Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adopting NOTE filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).

§ 1547. Failure to Appear.

Any licensee who fails or refuses to comply with written or verbal notification to appear before the Board of Stewards shall have their license privileges suspended pending their appearance before the Board of Stewards. Failure to appear shall be a separate cause for disciplinary action.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19460 and 19461, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 2-4-97; operative 3-6-97 (Register 97, No. 6).

§ 1548. Rulings by the Stewards.

(a) Any ruling or order issued by the stewards shall specify:

- (1) the full name of the licensee or person subject to the ruling or order;
- (2) his date of birth and social security number, if known;
- (3) a statement of the offense charged including any rule number, and
- (4) the penalty imposed.

(b) Any person affected by any ruling or order shall be notified.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1549. Recommendation of Discipline.

A racing official may recommend to the stewards that disciplinary action be imposed upon any licensee for a violation of any rule or regulation or for any other misconduct by such licensee.

§ 1550. Steward's List.

The stewards shall maintain a Steward's List of those horses which are ineligible to start or be entered in any race because of poor or inconsistent performance. The stewards may place on such list any horse which, in their opinion, has run an unsatisfactory race and its entry to any race shall be thereafter refused until it is demonstrated to the stewards that it should be removed from the list.

§ 1551. Starter's List.

The starter shall maintain the Starter's List and all horses shall be schooled to the starting gate, if and when required, under the personal supervision of the starter and/or his assistants. The entry of any horse on the Starter's List shall be refused.

§ 1552. Duties of the Starter.

The starter shall give all orders and take all measures not in conflict with the rules as may be required to insure a fair start. The starter shall appoint his assistants. The starter shall not permit his assistants to handle or take charge of a horse in the starting gate without his express instructions.

§ 1553. Duties of the Paddock Judge.

The paddock judge shall supervise the assembling of the horses scheduled to race and shall have general supervision over the saddling equipment and changes thereof. The paddock judge shall supervise the saddling of horses in the paddock and shall supervise their departure for the post. The paddock judge shall maintain a record of all equipment of a horse saddled for a race and he shall report to the stewards any change therefrom at a subsequent saddling. No change of equipment shall be made without the consent of the stewards.

§ 1554. Duties of Horse Identifier.

The horse identifier shall make an inspection of each horse prior to its departure for the post. He shall immediately report to the stewards and the paddock judge any horse which is not properly identified or has any irregularities from the official identification record of the Board. The horse identifier shall inspect, identify, and prepare identification records and photographs of all horses within the inclosure not previously identified in California. He shall inspect documents of ownership, eligibility, registration, or breeding, as may be necessary to insure proper identification of each horse eligible to compete at the race meeting. He shall supervise the tattooing or branding for identification of any horse within the inclosure.

§ 1555. Duties of Horseshoe Inspector.

The horseshoe inspector shall make an inspection of the horseshoes of each horse prior to its departure for the post. He shall report immediately to the stewards any horse which is improperly shod, and he shall maintain a record of the type of shoes worn by each horse. He has the authority to make adjustments and corrections in shoes of any horse as he may deem necessary, subject to the approval of the stewards.

§ 1556. Duties of Patrol Judges.

The patrol judges shall be subject to the orders of the stewards and shall report to the stewards all facts occurring under their observation during the running of a race.

§ 1557. Duties of Timer.

The timer shall record for posting the time of each race.

§ 1558. Duties of Placing Judges.

The placing judges shall occupy the placing judges' stand at the time the horses pass the winning post, and their duty shall be to place the horses in the order of finish and display results. If the photograph of the finish of the race indicates a close finish, or the placing judges are not unanimous as to the correct order of finish, the photograph shall be submitted to the stewards for examination and for concurrence on the result before the order of finish of the race is displayed or announced. In the case of a dead heat, or disagreement as to the correct order of finish, the decision of the stewards shall be final. In placing the horses at the finish, the position of the horses noses only shall be considered and not any other part of the body.

§ 1559. Duties of Clerk of Scales.

The clerk of scales shall verify the correct weight of each jockey at the time of weighing out and when weighing in, and he shall report any discrepancies to the stewards immediately. The clerk of scales shall notify the stewards of any change of jockeys, or of any extra or special weight declared for any horse, or any overweight, or any alteration of colors. At the close of each day's racing the clerk of scales shall provide the association with a report of the weight carried in every race and the names of the jockeys specifying overweight, if any. He shall provide the paymaster of purses an accounting of the riding fees due each jockey at the end of each racing day. The Clerk of Scales shall be responsible to the stewards for the conduct of the jockeys and their attendants in the jockey room.

§ 1560. Duties of the Official Veterinarian.

The official veterinarian shall be responsible to the stewards for the conduct of horses and their attendants in the receiving and detention barn. He shall have authority and jurisdiction to supervise the practicing li-

censed veterinarians and shall enforce the Board's rules and regulations relating to veterinary practices. The official veterinarian shall recommend discipline for the licensed veterinarians who fail to comply with the rules and regulations and accepted veterinary practices. He shall report

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to the Board the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefor. He shall maintain a list of all infirm horses on the grounds. No official veterinarian, during his term of appointment, shall directly treat or prescribe for any horse registered to race at any recognized meeting except in emergency, the details of which shall be immediately reported to the stewards.

§ 1561. Duties of the Racing Veterinarian.

The Racing Veterinarian shall examine each horse when it is first entered to race at the race meeting and he shall report to the stewards any horse which in his opinion is not of the age or condition which is satisfactory for the type of racing to be conducted at the meeting. The stewards may declare any such horse so reported as ineligible to be entered or started at the meeting until such time as the Racing Veterinarian certifies such horse to be raceably sound. The Racing Veterinarian shall be present in the paddock, on the race course, and at the starting gate during the saddling, the parade, and until the horses are dispatched from the gate for the race, and he shall examine any horse when there is a question as to the physical condition of such horse. He shall report any horse which in his opinion is incapable of physically exerting its best effort to win to the stewards who may declare such horse from the race. The Racing Veterinarian shall examine any horse which appears in physical distress during the race, at the finish of the race and he shall report such horse together with his opinion as to the cause of the distress to the stewards and to the official veterinarian. The Racing Veterinarian has the authority to treat any horse in event of an emergency, accident or injury, and he is authorized to humanely destroy any horse which in his opinion is so seriously injured that it is in the best interests of racing to so act, and every horse owner and trainer in participating in a race in this State does consent thereto. The Racing Veterinarian shall recommend to the official veterinarian those horses which by reason of physical disability should be placed on the Veterinarian's List and he may recommend removal from the list of those horses which in his opinion can satisfactorily compete in a race.

§ 1562. Duties of Associate Judges.

An associate judge may perform any of the duties which are performed by any racing official at a meeting, provided such duties are assigned or delegated to him by the Board or by the stewards presiding at that meeting.

NOTE: Authority cited: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code. Reference: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).

§ 1563. Duties of the Clerk of the Course.

The clerk of the course shall keep a record of all registration certificates or certificates of eligibility deposited with or released by the racing association, shall verify that the said certificates correctly reflect the ownership of the horse for which the certificate applies, shall record when directed appropriate identifying information on the said certificates in the custody of the said clerk of the course, is authorized to make transfers of certificates on horses claimed at the meeting and shall perform such other duties as directed by the stewards.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. New section filed 4-12-79; effective thirtieth day thereafter (Register 79, No. 15).

Article 6. Entries and Declarations

§ 1580. Control over Entries and Declarations.

All entries and declarations are under the supervision of the stewards, and they may, without notice, refuse the entries of any person or the trans-

fer of any entries, and they may also, in their discretion, limit entries by providing that no horse shall be listed for more than one race in any one day.

§ 1581. Racing Secretary to Establish Conditions.

The racing secretary may establish the conditions for any race, the allowances or handicaps to be established for specific races, the procedures for the acceptance of entries and declarations, and such other conditions as are necessary to provide and conduct the association's race meeting.

§ 1581.1. Entries.

No person shall enter or attempt to enter a horse for a race unless such entry is a bonafide entry made with the intention that such horse is to compete in the race for which entry is made.

(a) No horse having been drawn for a post position for any race to be run shall be entered for any subsequent race, other than for a stakes race, until or unless excused by the stewards from the race in which drawn for valid reason or until the race in which it has drawn has been run.

(b) No person shall attempt to enter or enter any horse for a race unless such person is authorized to do so in accordance with the rules.

(c) Every horse drawn in for a post-position in a race shall have a jockey or driver named to ride or to drive such horse before the draw is finalized and no jockey or driver shall be named to ride or to drive more than one such drawn horse in each race.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-6-80; effective thirtieth day thereafter (Register 80, No. 23).
2. Amendment of subsection (a) filed 1-18-84; effective thirtieth day thereafter (Register 84, No. 3).

§ 1582. Form of Entries and Declarations.

(a) Entries and declarations shall be in writing on the forms provided by the association and signed by the owner of the horse, his authorized agent, the trainer of the horse or a representative delegated by the trainer.

(b) As a condition of the race meeting under Rule 1437 of this division, entries may be made by telephone, facsimile, or any other electronic method deemed appropriate by the association. The association may require a written confirmation of such entries.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment of section and NOTE filed 12-5-2006; operative 1-4-2007 (Register 2006, No. 49).
3. Editorial correction of HISTORY 2 (Register 2007, No. 51).

§ 1583. Receipt of Entries and Declarations.

The racing secretary is the person authorized to receive entries and declarations for all races. The racing secretary, employees of his department, or racing officials shall not disclose any pertinent information concerning entries which have been submitted until after all entries are closed.

§ 1584. Entries by Telephone or Telegraph.

HISTORY

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1585. Miscarriage of Entry, Declaration or Payment.

Any entry, declaration, nomination, sustaining payment or other required payment, fee or eligibility documents submitted by mail but not received by the specified time shall not be accepted unless the person mailing the same submits satisfactory evidence of proper mailing in the form of a timely postmark or declaration from a postal representative.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1586. Joint Subscriptions and Entries.

Joint subscriptions, nominations and entries may be made by two or more partners, and each partner is jointly and severally liable for all stakes and forfeits.

§ 1587. Entries Survive with Transfer.

All entries and rights of entry are valid and survive when a horse is sold with his engagements duly transferred. If a partnership agreement is properly filed with the paymaster of purses, subscriptions, entries and rights of entry survive in the remaining partners. Unless written notice to the contrary is filed with the stewards, the entries, rights of entry, and engagements remain with the horse and are transferred therewith to the new owner. No entry or right of entry shall become void on the death of the nominator unless the conditions of the race state otherwise.

§ 1588. Horse Ineligible to Start in a Race.

In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(a) Such horse is not registered by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an arabian horse, or the American Paint Horse Association if a paint horse.

(b) The parentage verification to both the sire and the dam of all horses foaled in 1992 and thereafter has not been certified by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an arabian horse, or the American Paint Horse Association if a paint horse.

(c) Unless the stewards permit otherwise, the certificate of foal registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary at the time of entry;

(d) Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry;

(e) The certificate of foal registration, eligibility papers or other registration issued by the official registry has been altered, erased, or forged;

(f) The identification markings of the horse do not agree with the identification markings as set forth in the registration of such horse.

(g) Unless he is eligible to enter said race and is duly entered for such race.

(h) When such horse is owned in whole or in part by an unlicensed person or is in the care of an unlicensed trainer.

(i) When such horse is on the Steward's List, the Starter's List or the Veterinarian's List.

(j) When, except with prior approval of the stewards, such horse has not been on the grounds of the association or its approved auxiliary stable area for at least 24 hours prior to the time the race is to be run.

NOTE: Authority: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code.

HISTORY

1. Amendment of subsections (a) and (b) and relettering and new NOTE filed 7-9-92; operative 8-10-92 (Register 92, No. 28).

§ 1591. Horses Ineligible to Be Entered for Claiming Race.

In addition to any other valid ground or reason, a horse is ineligible to be entered for any claiming race when there is a lien on such horse which has been filed with the stewards and the racing secretary, and when such lien is declared as valid for racing purposes by the stewards.

§ 1592. Ineligible Horse to Be Disqualified.

Any horse ineligible to be entered for a race, or ineligible to start in any race, who competes in such race may be disqualified and the stewards may discipline anyone responsible therefor.

§ 1593. Change of Name of Horse.

In the event a horse's name is changed, both his old and his new name must be given in every entry list until he has run three races, and both names must be printed on the official program for those three races.

§ 1594. Registration Certificates to Reflect Correct Ownership.

Every certificate of registration or eligibility certificate filed with the association and its racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of such horse, and the name of the owner which is printed on the official program for such horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate unless a stable name has been registered for such owner or ownership with the Board.

§ 1595. Alteration or Forgery of Certificate of Registration.

No person shall alter or forge any certificate of registration, registration paper, certificate of eligibility or any other document of ownership or registration, nor willfully forge or alter the signature of any person required on any such document.

§ 1596. Transfer After Sale of Horse on the Grounds.

Any Board licensee acting as either seller or purchaser, or their agents or representatives, of a racehorse, prospective racehorse, stallion, or brood mare, which is sold while within the inclosure of a racing association or fair licensed to conduct a live racing meeting, shall immediately notify the stewards of such sale and transfer. The stewards shall require a completed Bill of Sale CHRB Form-101 (3/97), which is hereby incorporated by reference, for any such sale or transfer. If a sale or transfer occurs at an auxiliary stabling facility, a Board-approved training facility, an authorized horse sale or any other location and is sold or purchased by a Board licensee, a completed CHRB Form-101 shall be submitted to the stewards at the nearest racing facility within three (3) calendar days of the sale or transfer.

If the buyer and/or seller do not appear in person before the stewards and/or the stewards cannot independently verify the person's signature, a notarized Bill of Sale, CHRB Form-101, shall be required. CHRB Form-101 shall be available to the public at all Board offices.

NOTE: Sections 19420, 19440 and 19525, Business and Professions Code. Reference: Sections 19420, 19440 and 19525, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
2. Change without regulatory effect amending first paragraph filed 11-26-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).

§ 1597. Association to Maintain Records of Horses on Its Grounds.

The association shall maintain a list or record of all horses admitted to its grounds for racing by name, and such list or record shall also contain the name of the owner or owners of such horses, and the name of the trainers having care of such horses. Such list or record shall be available for inspection by the stewards or the Board. Additions and deletions of horses entering or leaving the grounds shall be made to such list or records within 48 hours of the entering or leaving of a horse.

§ 1598. Selecting Positions of Entered Horses.

The manner of selecting positions of horses at the post shall be determined by the stewards. The selection shall be by lot and shall be made by one of the stewards or someone designated by them, in public, at the close of the entries. The horses so drawn shall be entitled to a position at the post corresponding to the number drawn, which number shall be exhibited on the saddlecloth and printed in the program with the name of the jockey or driver.

§ 1599. Excessive Number of Entries.

If the number of entries to any race is in excess of the number of horses which may, because of track limitations, be permitted to start in any one

race, the race may be split and the starters shall be determined by lot in the presence of those having made entries, and the post positions shall be in the order in which they are drawn.

§ 1600. Horses Listed As Also Eligible.

If the entries to any purse race exceed the number which may, because of track limitations, be permitted to start in any one race, a list of four or more horses entered shall be drawn from the surplus entries and listed as "also eligible" to be drawn in to the race by lot if any of the first number are declared.

§ 1601. Preferred List of Horses.

The racing secretary shall maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have precedence in starting in any race of a similar distance and similar conditions in which they are afterward entered. If a horse is eliminated two or more times consecutively it shall have precedence over all other entries which have been eliminated fewer times. For

the purpose of this rule, races of a mile or over shall be considered races of similar distances and races of less than a mile shall be considered similar distances.

§ 1602. Time for Declarations.

Any owner, his authorized agent, or trainer of a horse which has been entered for a purse race and has been drawn in to the race and entitled to a post position or is also eligible, who does not wish such horse to start in the race, shall file a request for a declaration not later than the "scratch time" designated for such race by the stewards. Any horse so declared pursuant to such request shall lose all preferences it has accumulated.

§ 1603. Insufficient Entries.

The racing secretary with the agreement of the organization representing the horsemen at the meeting shall establish as a condition of the meeting the minimum number of valid entries required for an overnight race to be considered filled and a race considered filled with a sufficient num-

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ber of valid entries in accordance with such agreement shall be run. If there are insufficient entries for a race to be considered filled, such race may be declared off with approval of the stewards and a substitute race used.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19401, Business and Professions Code.

HISTORY

1. Amendment filed 6-6-80; effective thirtieth day thereafter (Register 80, No. 23).

§ 1604. Splitting of Overnight Race.

If a race is declared off because of insufficient entries, the association may split an overnight race which may have closed and may cause a new drawing for post positions.

§ 1605. Change in Conditions After Entry Prohibited.

After any entry to a race whose conditions have been published has been accepted by the racing secretary or his delegate, no condition of such race shall be changed, amended or altered, nor shall any new condition for such race be imposed.

§ 1606. Coupling of Horses.

(a) Two or more horses shall be coupled as a single wagering interest and as an entry when such horses are owned in whole or in part by the same person or persons.

(b) Quarter horse races are exempt from subsection (a) of this regulation.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19401, Business and Professions Code.

HISTORY

1. Amendment filed 10-22-74; effective thirtieth day thereafter (Register 74, No. 43).
2. Amendment filed 12-12-80; effective thirtieth day thereafter (Register 80, No. 50).
3. Amendment filed 8-12-81 as an emergency; effective upon filing (Register 81, No. 33).
4. Order of Repeal of 8-12-81 emergency order filed 8-12-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 33).
5. Amendment filed 1-4-82; effective thirtieth day thereafter (Register 82, No. 2).
6. Amendment adding subsection (a) designator and new subsection (b) filed 5-7-2007; operative 6-6-2007 (Register 2007, No. 19).

§ 1607. Classification of Horses.

The handicapper shall classify all horses he is requested to classify so that they may be eligible for handicaps or graded handicaps, and he may

change the class of any horse. The name and class of all horses so classified shall be posted in the office of the racing secretary.

§ 1608. Posting Weight in Handicaps.

The handicapper must post the weight in all handicaps not later than 6 P.M. on the date set for publication.

§ 1609. Liability to Penalty.

For every handicap for which there is a penalty clause, the handicapper shall append to the weight the day and hour in which winners will be liable to a penalty, and no alterations shall be made in any handicap after publication except in case of omission through error of the name or weight of a horse duly entered, in which case, by permission of the stewards, the omission may be rectified by the handicapper.

§ 1610. Official Records for Eligibility.

In determining the eligibility, penalty or penalties, and the right to allowance or allowances, the records of the racing secretary and the paymaster of purses shall be considered as official records, which records may be substantiated by the charts and records of the Daily Racing Form or any other service recognized by the Board.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19401, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 11-1-95; operative 12-1-95 (Register 95, No. 44).

§ 1611. Claim for Allowance.

Any allowance must be claimed at the time of entry. Failure to claim an allowance or the fact that an allowance was not given a horse shall not be grounds for disqualification of such horse.

§ 1612. Claim of Preference.

No claim for preference in entry to any race shall be considered unless marked on the entry blank by the person authorized to make entry.

§ 1614. Allowance for Fillies and Mares.

Except in races where the conditions of the race expressly state to the contrary, fillies two years old are allowed three pounds and fillies and mares three years old and older are allowed five pounds between January 1st and August 31st, and are allowed three pounds between September 1st and December 31st.

§ 1615. Scale of Weights for Age.

The following scale of weights for age shall be carried if the conditions for a race do not specify otherwise:

Distance	Age	Jan. and Feb.	March and April	May	June	July	Aug.	Sept.	Oct.	Nov. and Dec.
¼ mile	2 years _____	-	-	-	-	-	105	106	111	114
	3 years _____	117	119	121	123	125	126	127	128	129
	4 years _____	130	130	130	130	130	130	130	130	130
	5 years and up _____	130	130	130	130	130	130	130	130	130
½ mile	2 years _____	-	-	-	-	-	102	105	108	111
	3 years _____	114	117	119	121	123	125	126	127	128
	4 years _____	129	130	130	130	130	130	130	130	130
	5 years and up _____	130	130	130	130	130	130	130	130	130
1 mile	2 years _____	-	-	-	-	-	-	96	99	102
	3 years _____	107	111	113	115	117	119	121	122	123
	4 years _____	127	128	127	126	126	126	126	126	126
	5 years and up _____	128	128	127	126	126	126	126	126	126
1¼ miles	2 years _____	-	-	-	-	-	-	-	-	-
	3 years _____	101	107	111	113	116	118	120	121	122
	4 years _____	125	127	127	126	126	126	126	126	126
	5 years and up _____	127	127	127	126	126	126	126	126	126
1½ miles	2 years _____	-	-	-	-	-	-	-	-	-
	3 years _____	96	104	106	111	114	117	119	121	122
	4 years _____	124	126	126	126	126	126	126	126	126
	5 years and up _____	126	126	126	126	126	126	126	126	126
2 miles	3 years _____	96	102	106	109	112	114	117	119	120
	4 years _____	124	126	126	126	126	125	125	124	124
	5 years and up _____	126	126	126	126	126	125	125	124	124

In a race of intermediate distance weights for the shorter distance shall be carried.

§ 1616. Minimum Weights to Be Carried.

Notwithstanding any other provision of this Division, the minimum weight to be carried in all overnight races for two-year-olds only, for three-year-olds only, and for four-year-olds and upward shall be 112 pounds subject to further sex and apprentice allowances. The minimum weight to be carried in all races except handicap and stakes races, shall be 103 pounds.

NOTE: Authority cited: Sections 19562 and 19590, Business and Professions Code. Reference: Sections 19562 and 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1617. Improper Claim for Allowance.

No person shall claim at the time of entry a weight allowance for a horse for which such horse is not entitled. A claim to allowance for which a horse is not entitled is not a cause for disqualification unless carried out at scale.

§ 1618. When Penalties or Allowances Prohibited.

No horse shall be required to carry extra weight nor be allowed extra weight reduction nor be barred from entering any race due in whole to having been beaten in one or more races; provided that this shall not prohibit maiden allowances or allowances to horses that have not won within a specified time races of a specific value.

§ 1619. Apprentice Allowance.

An apprentice jockey shall be allowed the following weight allowances in all Thoroughbred, Appaloosa, Arabian and Paint races:

(a) Ten pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners.

(b) A seven pound allowance until the apprentice has ridden an additional 35 winners; and

(c) If an apprentice has ridden a total of 40 winners prior to the end of a period of one year from the date of riding their fifth winner, they shall have an allowance of five pounds until the end of that year.

(d) If after one year from the date of his or her fifth winning mount the apprentice has not ridden 40 winners, the applicable weight allowance shall continue for one more year or until the date of the 40th winner, whichever comes first.

An apprentice allowance may be waived with consent of the stewards.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

2. Amendment of first paragraph and new subsections (a)-(d) filed 3-18-97; operative 4-17-97 (Register 97, No. 12).

§ 1620. No Penalty for Winning Certain Races at Fairs.

A horse which wins a race at a fair race meeting in this State shall not be penalized for such winning in races run thereafter at any race meeting other than a fair race meeting if the net purse to such winning horse at such fair race is \$2,750 or less. This rule shall not apply to a maiden allowance which maiden allowance shall be lost by the winning of any race.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. Amendment filed 4-12-79; effective thirtieth day thereafter (Register 79, No. 15).

§ 1621. Winnings.

The winnings of a horse consist of its gross winnings. Winnings during

the year shall include all prizes from the first of January preceding the time appointed for the start and include races in any country, and include walkover purses. Winning of a fixed sum means winning it in any one race unless otherwise specified in the conditions of the race. Foreign winnings shall be estimated on the basis of the normal rate of exchange on

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the day of winning. Winnings in Canada when such winnings are expressed in dollars shall not be considered as foreign winnings.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1622. Winning of Fixed Sum.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1623. Foreign Winnings.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1624. Records of Foreign and Imported Horses.

The owner of any horse which has not previously raced at a recognized meeting in the United States or which has raced elsewhere, must furnish to the racing secretary prior to the entry of such horse to any race in this State, performance records of said horse's races during the past year showing where and when said horse did race, the distance, weight carried and said horse's finishing position and time. If such records are incomplete or unavailable, the owner or his representatives must submit an affidavit to such effect to the racing secretary. If such records or affidavit are not submitted, such horse shall be ineligible to start unless approval is first obtained from the Board.

§ 1625. Penalties and Allowances Not Cumulative.

Penalties and allowances are not cumulative unless so declared by the conditions of the race.

§ 1626. Refund of Fees.

If a stakes race is not run or declared or cancelled, stakes money and entrance money or fees shall be returned to the person contributing such stakes or entrance money. No refund of entrance or stakes money shall be refunded due solely to the death of a horse or his failure to start, or upon a finding by the stewards that the horse entered was ineligible to enter such stakes race or was ineligible to start in such race.

§ 1627. Declarations from Race Irrevocable.

The declaration of a horse from a race is irrevocable.

§ 1628. Declaration for Physical Disability.

The stewards may declare a horse out of a race when in the opinion of the Official Veterinarian or the Racing Veterinarian such horse cannot give his best efforts to win such race due to physical disability or other physical cause. The further entry to any race in this State of such horse shall not be accepted until the expiration of at least 48 hours from the time of declaration and until the said horse has been examined, and his physical condition approved for racing by the Official Veterinarian.

§ 1629. Penalty for Late Declaration.

No person other than the stewards may declare a horse out of any overnight race after the "scratch time" designated for such race by the stewards, and the starting of such horse is obligatory. Any person responsible for the failure of any horse to start in a race when the starting of such horse is obligatory may be disciplined by the stewards.

§ 1630. Declaration in Stakes Races.

A declaration of a horse from a stakes race may be made until one hour before post time for that race after which time the starting of such horse is obligatory. Notwithstanding the foregoing, a request for the declaration of a horse from an overnight stakes race shall be made no later than the scratch time for overnight races and may only be granted with the approval of the Stewards.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19440, 19562, Business and Professions Code.

HISTORY

1. Amendment filed 10-11-90; operative 11-10-90 (Register 90, No. 45).

§ 1631. Walkover Races.

When a walkover is a result of arrangements by owners or trainers of horses engaged to race, no prize or stake need be given. If a walkover occurs any entrance money or stakes money shall go to the winner, but any added money of the association for such race need not be given.

§ 1632. Jockey's Riding Fee.

(a) Winning jockey riding fees in the absence of a contract or special agreement are:

<i>Gross Purse</i>	<i>Winning Mount</i>
\$100,000 and up:	10% of Win Purse
50,000-99,999:	10% of Win Purse
25,000-49,999:	10% of Win Purse
15,000-24,999:	10% of Win Purse
10,000-14,999:	10% of Win Purse
5,000-9,999:	10% of Win Purse
3,500-4,999:	10% of Win Purse
2,000-3,499:	10% of Win Purse
1,500-1,999:	10% of Win Purse
700-1,499:	10% of Win Purse
600-699:	\$36.00
599 and under:	33.00

(1) The purpose of Subdivision (a) is not to set a minimum or maximum fee. It provides a fee if the parties have not made a written agreement to the contrary.

(2) All fees pursuant to Subdivision (a) are payable in the lower purse range until the next higher purse range is reached, unless there is a written agreement to the contrary.

(b) Non-winning jockey riding fees are:

<i>Gross Purse</i>	<i>2nd Mount</i>	<i>3rd Mount</i>	<i>Losing Mount</i>
\$100,000 and up:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$115.00
50,000-99,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$90.00
25,000-49,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$75.00
15,000-24,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$65.00
10,000-14,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	\$60.00
5,000-9,999:	\$75.00	\$60.00	\$55.00
3,500-4,999:	\$65.00	\$55.00	\$50.00
2,000-3,499:	\$55.00	\$50.00	\$48.00
1,500-1,999:	\$45.00	\$43.00	\$43.00

<i>Gross Purse</i>	<i>2nd Mount</i>	<i>3rd Mount</i>	<i>Losing Mount</i>
700–1,499:	\$43.00	\$43.00	\$43.00
600–699:	\$43.00	\$43.00	\$43.00
599 and under	\$43.00	\$43.00	\$43.00

(1) The purpose of Subdivision (b) is to set a minimum, but not a maximum riding fee. No non-winning jockey shall be paid less than the riding fee set forth in Subdivision (b).

(2) All fees pursuant to Subdivision (b) are payable in the lower purse range until the next higher purse range is reached unless there is a written agreement to the contrary. However, no such written agreement shall reduce the minimum required by Subsection (b).

(c) A jockey's fee is considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey elects to take himself off of his mount. If there is a substitution of jockeys, no additional jockey fee or double jockey fee need be paid except when ordered by the stewards.

(d) In this rule "Win Purse" means the amount paid the winning horse less the fees paid by the owner to enter the horse in the race.

(e) If the parties agree on the fee to be paid the jockey, a contract or agreement in writing signed by the jockey or his agent and the owner or his authorized agent specifying the agreed upon fee if a winning mount, second place mount, third place mount and losing mount shall be delivered to the paymaster of purses before the running of the race in question. The paymaster of purses shall debit the owner's purse account under the contract or written agreement. If no contract or written agreement is submitted before the running of the race in question, the paymaster of purses shall debit the owner's purse account under the fee scale set forth in this rule.

(f) A jockey may not share in the fees of another jockey.

NOTE: Authority cited: Sections 19440, 19501 and 19562, Business and Professions Code. Reference: Sections 19401(a), 19401(e), 19420 and 19440, Business and Professions Code.

HISTORY

1. Amendment filed 8–15–74; effective thirtieth day thereafter (Register 74, No. 33).
2. Amendment filed 10–6–78; effective thirtieth day thereafter (Register 78, No. 40).
3. Amendment filed 6–8–79; effective thirtieth day thereafter (Register 79, No. 23).
4. Amendment filed 11–25–86; effective upon filing pursuant to Government Code Section 11346.2 (d) (Register 86, No. 48).
5. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
6. Amendment of subsections (a) and (d) and amendment of NOTE filed 2–28–2001; operative 2–28–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).
7. Change without regulatory effect amending section and NOTE filed 1–10–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 2).

§ 1633. Release of Certificates of Registration.

(a) Any certificate of registration filed with the racing secretary to establish eligibility to enter a race shall be released only to:

- (1) the trainer of record or;
- (2) the owner(s) named in the certificate or;
- (3) at the request of the owner, a person designated by the owner(s) in writing or;
- (4) if unclaimed at the end of the meeting, to the Board.

(b) Under no circumstances shall any person remove and hold a certificate of registration:

- (1) to prevent a horse from racing or;
- (2) to remove a legal owner's name without authorization.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19460 and 19562, Business and Professions Code.

HISTORY

1. Amendment of section heading, text and new NOTE filed 4–5–94; operative 5–5–94 (Register 94, No. 14).

Article 7. Claiming Races

§ 1650. Racing Interest Defined.

For the purposes of this article a racing interest is defined as any individual owner, or any partnership of owners, or any registered stable, but not including a lessee, which participates as an owning entity or nominator of a race horse. A licensed owner may participate in more than one racing interest.

§ 1651. Eligibility to Claim.

In claiming races any horse is subject to being claimed for its entered price by any racing interest, by any licensed horse owner, or by any person who has established his qualifications to claim by filing an application for license as horse owner and having been granted a certificate authorizing the claim. Such claim certificate shall not be issued until all conditions and qualifications for a horse owner's license have been met or completed.

HISTORY

1. Amendment filed 11–16–73; designated effective 1–1–74 (Register 73, No. 46).

§ 1652. Prohibited Actions with Respect to Claims.

No person shall:

(a) Enter into or offer to enter into any agreement to claim any horse unless all parties to the agreement are eligible to claim.

(b) Claim his own horse or cause his own horse to be claimed directly or indirectly for his own account.

(c) Attempt to prevent or prevent any racing interest from running a horse in any race for which it is entered or from claiming any horse in any claiming race.

(d) Make any agreement with any other person or racing interest for the protection of each other's horses in any claiming race.

(e) Make any loan agreement for the purpose of obtaining funds for the claim of any horse when a condition of such agreement is a lien on the horse to be claimed.

(f) Except with permission of the stewards, remove any horse which has been entered in a claiming race from the grounds of the association where it is entered to race, or fail or refuse to comply with any rule or any condition of the meeting for the purpose of avoiding or preventing a claim for such horse.

(g) Claim more than one horse for the account of any one racing interest from any one claiming race, nor, if an authorized agent representing more than one racing interest, file more than two separate claims on behalf of any of the racing interests he may represent.

(h) Offer any monetary or other reward to any pony boy, exercise boy, groom, stable employee or other licensee for information relative to the physical condition or merit of a horse, or provide information relative to the physical condition or merit of a horse, from the time such horse is entered in a claiming race until the expiration of time to make a claim on such horse in that claiming race.

HISTORY

1. Amendment filed 6–14–74 as an emergency; effective upon filing (Register 74, No. 24).
2. Certificate of Compliance filed 8–12–74 (Register 74, No. 33).
3. New subsection (h) filed 6–25–76; effective thirtieth day thereafter (Register 76, No. 26).

§ 1653. Responsibility for Prohibited Actions.

If a racing interest is comprised of more than one licensed owner, all owners comprising such racing interest are jointly and severally liable for any action of the racing interest.

§ 1654. Affidavit May Be Required.

The stewards may require any person or any racing interest, its members or authorized agent, making a claim for a horse in any claiming race

to make an affidavit in writing that he is claiming said horse for his own account if an individual owner, for the account of the racing interest if comprised of more than one licensed owner, or for the claiming racing interest if an authorized agent, and that the claim is not being made for any other person.

§ 1655. Form and Deposit of Claim.

(a) All claims shall be in writing on a form approved by the Board, and shall be sealed and deposited in the claim box at least 15 minutes before the post time of the race in which the horse to be claimed is entered.

(b) No money shall accompany a claim form. Any person or racing interest making a claim shall first have the amount of the claim on deposit with the association or the paymaster of purses at the meeting. The paymaster or other authorized official shall verify the amount required is on deposit and that the person submitting the claim is eligible to claim under Rule 1651 of this division by initialling or otherwise marking the claim envelope.

(c) The filing of a claim by depositing the claim form in the claim box constitutes a contract of purchase at the established price and under the rules for claiming.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Sections 19408.2 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1656. Errors Which Invalidate Claim.

A claim is invalid if the name of the horse to be claimed is erroneously spelled or not specified on the claim form; or if the claim form is not signed by an owner authorized to claim or a member of a racing interest authorized to claim or their properly registered authorized agent; or is not accompanied by a certification from the paymaster of purses that the amount of the claim and all applicable taxes is on deposit with the association or such paymaster of purses; or is deposited at a place other than that provided by the association; or is not deposited within the correct time; or does not specify the racing interest making the claim; or is otherwise so defective in any particular that the stewards cannot approve its validity; or fails to specify the designated claiming price.

§ 1657. Opening of Claim.

After the horses in a claiming race have reached the post, the stewards or their delegate shall open and examine the claims but no information concerning such claims shall be divulged to anyone other than the authorized racing officials until the race has been run. Should more than one claim be filed for the same horse, the successful claimant shall be determined by lot in a manner specified by the stewards.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Sections 19408.2 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1658. Vesting of Title to Claimed Horse.

(a) Title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter; and said successful claimant becomes the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race or after it. Only a horse which is officially a starter in the race may be claimed. A subsequent disqualification of the horse by order of the stewards or the Board shall have no effect upon the claim.

(b) The claim shall be void if the race is called off, canceled, or declared no contest in accordance with Rule 1544 of this division.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. New subsection (b) and new NOTE filed 11-22-2006; operative 12-22-2006 (Register 2006, No. 47).

§ 1659. Delivery of Claimed Horse.

A horse which has been claimed shall not be delivered by the original owner to the successful claimant until authorization is given by the stewards, and every horse so claimed shall run for the account of the racing interest in whose name it is entered for such race. No horse claimed out of a claiming race shall remain in the same stable under the management of its former owner or trainer.

§ 1660. Delivery of Certificates or Documents.

A proper transfer of certificate of registration or eligibility certificate shall be made by the stewards or the delegated racing official indicating transfer of ownership to the successful claimant. No person shall willfully refuse to surrender any document of ownership or other document required by the stewards for the purpose of avoiding or hindering the transfer of a successfully claimed horse to a successful claimant.

§ 1661. Warranty of Clear Title.

Every racing interest entering a horse in a claiming race does warrant that the title to said horse is free and clear of any existing claim or lien, either as mortgage, bill of sale, or lien of any kind, unless before entering such horse the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards.

§ 1662. Sale or Transfer of Claimed Horse.

No horse claimed out of a claiming race shall be sold or transferred to any person for racing purposes within 30 days exclusive of the day such horse was claimed.

HISTORY

1. Amendment filed 6-14-74 as emergency; effective upon filing (Register 74, No. 24).
2. Certificate of Compliance filed 8-12-74 (Register 74, No. 33).

§ 1663. Entry of Claimed Horse.

(a) A horse claimed out of a claiming race is eligible to race at any racing association in California immediately after being claimed. The horse is not eligible to start in a claiming race for 25 days after the date of the claim for less than 25% more than the amount for which it was claimed.

(b) A horse claimed out of a claiming race is not eligible to race in any State other than California until 60 days after the close of the meeting from where it was claimed except in a stakes race.

(1) For the purposes of this rule, the California Fair Circuit shall be considered one meeting.

(c) A claimed horse may be removed from the grounds of the association where it was claimed for non-racing purposes.

(d) The provisions of subsection (a) of this rule do not apply to standardbred horses.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 6-14-74 as emergency; effective upon filing (Register 74, No. 24).
2. Certificate of Compliance filed 8-12-74 (Register 74, No. 33).
3. Amendment filed 9-13-90; operative 10-13-90 (Register 90, No. 43).
4. Editorial correction of printing error (Register 92, No. 24).
5. Editorial correction (Register 98, No. 21).
6. Amendment filed 5-19-98; operative 5-19-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 21).
7. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
8. Amendment of section and NOTE filed 8-24-2005; operative 8-24-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 34).

§ 1664. Entry of Mare in Foal in a Claiming Race.

(a) A mare may not be entered in a claiming race when it is pregnant, unless before the time of entry the owner deposits with the racing secretary a signed agreement whereby the owner at the time of entry provides the successful claimant without cost, protest or fee of any kind, a valid stallion service certificate covering the breeding of the mare.

(b) A successful claimant of a mare may file with the Board a petition to rescind the claim within 30 days after the date of claim if the successful

claimant finds the claimed mare is pregnant and the agreement to provide a stallion service certificate has not been deposited as required by this rule.

NOTE: Authority cited: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code. Reference: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26). For history of former section, see Register 73, No. 46.
2. Change without regulatory effect amending section and NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1665. Rescission of Claim.

The Board may set aside and order rescission of a claim for any horse from a claiming race run in this State upon a showing that any party to the claim committed any prohibited action with respect to the claim or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of this article regarding entry of a horse into a claiming race. Should the Board order a rescission of a claim it may also, in its discretion, make a further order for the costs of maintenance and care of the horse as it may deem appropriate. Any petition or action taken to rescind a claim shall be commenced no later than 30 days from the date the claim was made.

NOTE: Authority cited: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code. Reference: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26). For history of former section, see Register 73, No. 46.

§ 1666. Claim Certificate Forfeited.

HISTORY

1. Repealer filed 11-16-73; designated effective 1-1-74 (Register 73, No. 46).

§ 1667. Claims at California Fair Circuit.

The Alameda County Fair, the Solano County Fair, the Sonoma County Fair, the San Joaquin County Fair, the Humboldt County Fair, the California State Fair, the San Mateo County Fair and the Fresno District Fair together are deemed to comprise the Northern California Fair Circuit. For the purposes of claiming the Northern California Fair Circuit shall be considered as one race meeting.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Sections 19408.2 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-14-74 as an emergency; effective upon filing (Register 74, No. 24). For history of former section, see Register 73, No. 46).
2. Certificate of Compliance filed 8-12-74 (Register 74, No. 33).
3. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1668. Claiming Races at Harness Meetings.

HISTORY

1. Repealer filed 11-16-73; designated effective 1-1-74 (Register 73, No. 46).

§ 1669. Sale, Transfer or Entry of Claimed Harness Horse.

HISTORY

1. Amendment filed 2-15-74; effective thirtieth day thereafter (Register 74, No. 7).
2. Repealer filed 6-14-74 as an emergency; effective upon filing (Register 74, No. 24).
3. Certificate of Compliance filed 8-12-74 (Register 74, No. 33).

Article 8. Running the Race

§ 1680. Jockeys and Drivers to Report.

(a) Every jockey engaged to ride in a race shall report to the Jockey Room at least one hour before post time of the first race unless excused

by the stewards. Every jockey shall weigh out at the appointed time. After reporting, a jockey shall not leave the Jockey Room except to ride in a race until all his or her engagements for the day have been fulfilled unless excused earlier by the stewards.

(b) Every driver engaged to drive in a race shall report to the Driver Room at least one hour before post time of their first race. After reporting, a driver shall not leave the Driver Room except to drive in a race until all his or her engagements for the day have been fulfilled unless excused earlier by the stewards.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment of section heading, designation and amendment of subsection (a) and new subsection (b) filed 10-13-94; operative 11-14-94 (Register 94, No. 41).

§ 1681. Jockeys to Remain in Jockey Room.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1682. Weighing Out.

All jockeys taking part in a race must be weighed out by the clerk of scales no more than one hour preceding the time fixed for the race. Any overweight in excess of one pound shall be declared by the jockey to the clerk of scales, who shall have such overweight and any change to jockeys posted immediately for public information and announced over the public address system.

§ 1683. Maximum Overweight.

No horse shall carry more than two pounds overweight without consent of its owner, his agent, or his representative, but shall not carry more than seven pounds overweight in any race.

§ 1684. Items Included in Weight.

A jockey's weight includes his riding clothing, saddle and pad. It shall not include the jockey's safety helmet, safety vest, whip or the horse's bridle.

NOTE: Authority cited: Sections 19481 and 19562, Business and Professions Code. Reference: Section 19481, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 10-26-93; operative 1-1-94 (Register 93, No. 44).
2. Change without regulatory effect amending section and NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1685. Equipment Requirement.

No bridle shall weigh more than two (2) pounds, nor shall any whip weigh more than one-half (1/2) pound. No whip shall be used unless it has affixed to the end a looped "popper" made of leather or other material approved by the stewards, not less than one and one-quarter (1 1/4) inches in width, and not over three (3) inches in length, and be "feathered" above the "popper" with not less than three (3) rows of "feathers" made of leather or other material approved by the stewards, each feather not less than one (1) inch in length. No whip shall exceed thirty-one (31) inches in length. All whips are subject to inspection and approval by the stewards.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19441.2 and 19481, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 4-15-93; operative 5-17-93 (Register 93, No. 16).
2. Amendment of section and NOTE filed 1-9-96; operative 2-8-96 (Register 96, No. 2).

§ 1686. Responsibility for Weight.

The trainer and owner shall be responsible for the weight carried by the horse after the jockey has been weighed out for the race by the clerk of scales. The trainer or owner may substitute a jockey when the engaged jockey reports an overweight in excess of two pounds.

§ 1687. Deposit of Jockey Fee.

The minimum jockey mount fee for a losing mount in the race must be on deposit with the paymaster of purses, except for a jockey riding for his contract employer, prior to the time for weighing out, and failure to have such minimum fee on deposit is cause for disciplinary action and cause for the stewards to declare the horse for which such fee is to be deposited. The association assumes the obligation to advance the minimum jockey fee to the engaged jockey in the absence of a declaration of the horse from the race, and any such advanced fee is a lien upon the horse.

§ 1688. Use of Whips.

(a) In all races where a jockey will not ride with a whip, an announcement shall be made over the public address system of such fact.

(b) Although the use of a whip is not required, any jockey who uses a whip during a race is prohibited from whipping a horse:

- (1) on the head, flanks, or on any part of its body other than the shoulders or hind quarters;
- (2) during the post parade except when necessary to control the horse;
- (3) excessively or brutally causing welts or breaks in the skin;
- (4) when the horse is clearly out of the race or has obtained its maximum placing; or
- (5) persistently even though the horse is showing no response under the whip.

(c) Correct uses of the whip are:

- (1) showing horses the whip before hitting them;
- (2) using the whip in rhythm with the horse's stride; and
- (3) using the whip as an aid to maintain a horse running straight.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19440, 19481 and 19562, Business and Professions Code.

HISTORY

1. Amendment and new NOTE filed 6-4-93; operative 7-5-93 (Register 93, No. 23).
2. Change without regulatory effect amending NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1689. Safety Helmets Required.

A racing association may not permit any person to gallop or pony a horse, to ride a horse in a race or be mounted in or riding on a sulky unless the person is wearing a properly fastened safety helmet.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19481 and 19460, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 7-26-94; operative 8-25-94 (Register 94, No. 30).
2. Change without regulatory effect amending NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1689.1. Safety Vest Required.

(a) No jockey or apprentice jockey shall ride in a race unless wearing a safety vest, nor shall a jockey, apprentice jockey, or exercise rider, train or exercise any horse on the grounds of a racing association or racing fair unless wearing a safety vest. Such safety vest shall:

- (1) Provide a minimum of shock absorbing protection to the upper body of a five rating as defined by the British Equestrian Trade Association (BETA);
- (2) Cover the entire torso from the collar bone to a line level with the hip bone allowing a vee opening in the front neckline;
- (3) Weigh no more than 2 pounds.

(b) The weight of a safety vest shall not be included in the weight of a jockey or apprentice jockey when weighing out or weighing in or when adding weight to make up a weight assignment.

NOTE: Authority cited: Sections 19420, 19481 and 19562, Business and Professions Code. Reference: Section 19481, Business and Professions Code.

HISTORY

1. New section filed 10-26-93; operative 1-1-94 (Register 93, No. 44).
2. Change without regulatory effect amending subsections (a) and (b), repealer of subsections (c) and (d) and amendment of NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
3. Amendment of subsections (a) and (a)(3) and amendment of NOTE filed 2-15-2001; operative 2-15-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 7).

§ 1690. Prohibited Equipment.

No spurs or steels, twitches, war bridles, or any other appliances other than regular approved racing equipment shall be used on any horse except with express permission of the stewards, who shall report any such permitted use to the Board with the reasons therefor.

§ 1690.1. Toe Grabs Prohibited.

(a) Toe grabs with a height greater than four millimeters, worn on the front shoes of thoroughbred horses while racing, are prohibited.

NOTE: Authority cited: Sections 19420 and 19562, Business and Professions Code. Reference: Section 19481, Business and Professions Code.

HISTORY

1. New section filed 1-9-2006; operative 2-8-2006 (Register 2006, No. 2).

§ 1691. Colors, Number, and Advertising.

(a) A jockey shall be properly attired for riding in a race, wearing the colors of the owner of the horse he or she is riding, and exhibiting a number on the saddlecloth that corresponds to the number of the horse on the official program.

(b) Advertising, including logos, labels, or product endorsements shall be permitted on jockey attire, owner silks, and track saddlecloths from the point of weighing out for a race to weighing in after its conclusion.

(c) A copy of the advertisement signage must be submitted for review, for compliance with the provisions of this rule, to the stewards at the track where the advertisement will be worn before the horse is entered to race.

(d) Advertisement on jockey clothing is limited to:

(1) A maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and knee and 10 square inches on the rear at the base of the spine.

(2) A maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot.

(3) A maximum of 6 square inches on the front center in the neck area.

(e) Advertisement on owner silks is limited to:

(1) A maximum of 32 square inches on the chest area.

(2) A maximum of 1.5 inches by 4 inches on each collar.

(f) Advertisement on track saddlecloths is not limited to size or placement.

NOTE: Authority: Sections 19420 and 19562, Business and Professions Code. Reference: Sections 19420 and 19562, Business and Professions Code.

HISTORY

1. Amendment of newly designated subsection (a) and adoption of subsection (b) and NOTE filed 7-9-92; operative 8-10-92 (Register 92, No. 28).
2. Amendment of section heading and subsections (a) and (b) and new subsections (c)-(f) filed 2-13-2002; operative 2-13-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 7).

§ 1692. Requirements for Horse, Trainer and Jockey.

Each horse starting in a race must be qualified for that race, ready to run, in physical condition to exert its best effort, and entered with the intention to win. Each trainer having the care or custody of such horse warrants it is fit to participate when brought to the paddock. Such trainers shall be present at the paddock to supervise the saddling of the horse and shall give instructions to assure the best performance of the horse.

Jockeys going to the post in any race shall race their mount to win, shall give their best efforts in the race to their mount and the public, and shall ride their mount out until the finish line is passed.

No person shall, or attempt to, instruct, induce or otherwise solicit any jockey or trainer to ride or perform in a manner contrary to this rule.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 7-23-97; operative 8-22-97 (Register 97, No. 30).

§ 1693. Control of Horses and Jockeys on Entering the Track.

The horses are under the control of the starter from the time they enter the track until dispatched at the start of the race. After entry on the track or race course, the horses are not entitled to further care from their attendants, except in case of accident the starter may permit the jockeys to dismount and the horses to be cared for during the delay; otherwise, no

jockey shall dismount until after the finish of the race. The horse must be started by the jockey, but with the sanction of the starter it may be led to its position in the gate by an assistant starter. With the sanction of the starter an assistant starter may enter the gate to handle a fractious horse. No assistant starter shall in any way impede, whether intentionally or otherwise, a fair start.

§ 1694. Parade of Horses.

All horses shall parade, carrying their weight and wearing their equipment, from the paddock to the starting post. Any horse failing to do so may be declared by the stewards. No lead pony leading a horse in the parade shall be ridden so as to obstruct the public's view of any horse which is to race, except with the permission of the stewards or their delegate who shall report the granting of such permission and the reasons therefor to the Board.

§ 1695. To the Post.

After entering the race course track, not more than twelve minutes shall be consumed in the parade of horses to the post except in cases of unavoidable delay. After passing the stands once, the horses may break formation and canter, warm up or go as they please to the post. When the horses have reached the post they shall promptly be placed in their starting gate stalls in the order of their post positions, unless otherwise ordered by the starter. The starter shall see that the horses are placed in their proper positions without unnecessary delay. Causes for any delay in the start shall immediately be reported to the stewards.

§ 1696. The Start.

Except in cases of emergency, every horse shall be started from an approved starting gate by the starter. If the doors at the front of the starting gate stall should not open due to a mechanical failure or a malfunction of the starting gate, when the starter dispatches the field, or should a horse not be in the starting gate stall when the field is dispatched, thereby causing such horse to be left, the starter shall immediately report such fact to the stewards, and the stewards may declare such left horse to be a non-starter.

HISTORY

1. Amendment filed 4-10-75; effective thirtieth day thereafter (Register 75, No. 15).

§ 1697. Declaration of Horse by Stewards.

After entering the race course track for the post, a horse shall only be declared by the stewards when they consider such horse unfit to run in the race. No horse determined to be a starter shall be excused or declared from the race. Any horse which breaks through the gate or runs off without effective control shall be examined by the racing veterinarian and determined to be fit to compete before being permitted to start.

§ 1698. Failure to Start and Run.

No person shall willfully or negligently cause any horse whose starting is obligatory to fail to start and run its race.

§ 1699. Riding Rules.

During the running of the race:

(a) A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.

(b) A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.

(c) A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such other horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

(d) Jockeys shall not ride carelessly or willfully so as to permit their mount to interfere with or impede any other horse.

(e) Jockeys shall not willfully strike or strike at another horse or jockey so as to impede, interfere with, intimidate, or injure.

(f) If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Sections 19461 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 8-13-97; operative 9-12-97 (Register 97, No. 33).

§ 1700. Returning to Finish After the Race.

A jockey, after the race, shall return his horse to the finish and upon returning he shall salute the stewards, and receive the permission of the stewards or their delegate to dismount. The jockey shall present himself with his equipment for weighing in immediately after so dismounting. The stewards may authorize any jockey and horse to participate in a ceremony or other approved special activity provided that such ceremony or special activity is under the observation of the stewards or other racing officials.

§ 1701. Weighing In.

A jockey shall weigh in after the finish of the race and he shall not weigh less than one pound of his proper weight nor two pounds over his proper weight except that the stewards may take into account any excess weight caused by rain or mud. The stewards may disqualify any horse whose jockey weighs in at less than one pound of his proper weight, and shall discipline the persons responsible therefor.

§ 1702. Claim of Interference or Other Foul.

A jockey, trainer or owner of a horse, who has reasonable grounds to believe that his horse was interfered with or impeded or otherwise hindered during the running of the race, or that any riding rule was violated by any other jockey or horse during the running of the race, may immediately make a claim of interference or foul with the clerk of scales, the stewards or their delegate before the race has been declared official. The stewards may thereupon hold an inquiry into the running of the race. No person shall make any claim of interference or foul knowing the same to be inaccurate, false or untruthful.

§ 1703. Jockey Excused from Weighing In.

Should any jockey be unable to present himself for weighing in due to accident, injury, or other good cause, the stewards may excuse such jockey.

§ 1704. Official Order of Finish.

When satisfied the order of finish is correct, all timely objections have been addressed, and the race has been properly run under the rules of the Board, the stewards shall order the official order of finish confirmed and the official sign posted for the race. The decision of the stewards as to the official order of finish for pari-mutuel wagering purposes is final, and no subsequent action may set aside or alter the official order of finish for the purposes of pari-mutuel wagering.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 9-1-94; operative 10-3-94 (Register 94, No. 35).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

Article 9. Harness Racing Rules

§ 1720. Harness Racing Rules.

The harness racing rules in this article shall apply to harness races in addition to other rules of this division.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1721. Driving Rules.

No driver during a race shall:

- (a) Change either to the right or left during any part of the race when another horse is so near that in altering the position of his horse he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull such horse out of his stride.
- (b) Jostle, strike, hook wheels, or interfere with another horse or driver.
- (c) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers or horses.
- (d) Swerve in or out or pull up quickly.
- (e) Crowd a horse or driver by putting a wheel under him.
- (f) Carry a horse out or sit down in front of him, take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act which constitutes what is popularly known as "helping."
- (g) Let a horse pass inside needlessly.
- (h) Lay off a normal pace and leave a hole when it is well within the horse's capacity to keep the hole closed.
- (i) Commit any act which shall impede the progress of another horse or cause him to break.
- (j) Change course after selecting a position in the home stretch, or bear in or out, in such manner as to interfere with another horse or cause him to change stride or break.
- (k) Drive in a careless or reckless manner.
- (l) Drive or cause to be driven any unreasonably slow quarters or fractions.
- (m) Fail to use his best efforts to win.
- (n) Whip his horse under the arch of the sulky.
- (o) Drive in such manner as to obtain for himself an unfair advantage.

§ 1722. Breaking.

Should any horse break from its gait in either trotting or pacing, the driver shall:

- (a) Where clearance exists, take such horse to the outside.
- (b) Attempt to pull the horse to its gait.
- (c) Lose ground.

§ 1723. Lapped-on Break.

The driver of a horse which has broken from its gait who has complied with the breaking rule shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish.

§ 1724. Driver Must Be Mounted.

A driver must be mounted in his sulky during the race, and if not so mounted at the finish he shall be disqualified.

§ 1725. Equipment.

All equipment, hobbles, head-poles, whips and other tack and equipment used in any race is subject to the approval of the stewards who may refuse a change in such equipment or require the use of such equipment as may be deemed proper.

§ 1726. Wheel Discs.

Unless the stewards permit otherwise, every sulky used in a race shall be equipped with plastic wheel discs on the inside and outside of each wheel; such discs shall be either clear or solid pastel color.

§ 1727. Starting Gate to Be Used.

A mobile starting gate shall be used to start all harness races. The starting gate so used shall be equipped with a communication system permitting communication between the starter and the stewards, and shall be otherwise maintained and equipped as may be required by the Board or the stewards.

§ 1728. Starter's Control.

The starter shall have control over the horses from the formation of the parade until he gives the word "go." The starter shall report to the stewards any misconduct or violation on the part of a driver and may order any unmanageable or disabled horse declared from the race with concurrence of the stewards.

§ 1729. Starting the Race.

The starter shall bring the horses to the starting gate as near one-quarter of a mile from the starting point as the track may permit, and shall endeavor to get all horses away in position and on gait. If a horse refuses to come to the gate, is unmanageable or liable to cause an accident or injury to any other horse or to a driver it may be declared and all monies wagered on that horse shall be refunded.

HISTORY

1. Amendment filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).

§ 1730. Recalls.

The starter may sound a recall only for the following reasons:

- (a) A horse scores ahead of the gate.
- (b) There is interference prior to the word "Go" being given.
- (c) A horse has broken equipment.
- (d) A horse falls before the word "Go" is given.

There shall be no recall after the word "Go" has been given and any horse, regardless of his position or an accident, shall be deemed a starter from the time he entered into the starter's control unless dismissed by the starter.

HISTORY

1. Amendment filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).

§ 1731. Driver Infractions.

No driver shall:

- (a) Delay the start.
- (b) Fail to obey the instructions of the starter.

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- (c) Rush ahead of the wing of the starting gate.
- (d) Come to the starting gate out of position.
- (e) Cross over before reaching the starting point.
- (f) Interfere with another driver or horse during the start.
- (g) Fail to come up into position.

§ 1732. Racing Costume Required.

(a) A driver shall be attired in his or her own driving colors or the colors of the owners of the horse, white driving trousers with leg clips and a safety helmet, when driving in any race.

(b) No form of advertising including logos, labels, or product endorsements shall be permitted on a driver's attire during the running of a race. NOTE: Authority cited: Sections 19420 and 19562, Business and Professions Code. Reference: Sections 19420 and 19562, Business and Professions Code.

HISTORY

1. Amendment and designation of subsection (a), new subsection (b) and NOTE filed 6-9-92; operative 7-9-92 (Register 92, No. 24).

§ 1733. Whips.

Whips shall not exceed four feet plus a snapper not longer than six inches. Whips shall be in good condition and are subject to inspection by the officials at any time.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19563, Business and Professions Code.

HISTORY

1. Amendment filed 2-8-93; operative 3-10-93 (Register 93, No. 7).
2. Amendment filed 10-16-2006; operative 11-15-2006 (Register 2006, No. 42).

§ 1734. Whipping.

No driver shall use unreasonable or unnecessary force in the whipping of a horse, nor whip any horse causing visible injury, nor whip any horse about the head, nor whip any horse after the finish line has been crossed except when necessary to control the horse.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19563, Business and Professions Code.

HISTORY

1. Amendment filed 2-8-93; operative 3-10-93 (Register 93, No. 7).

§ 1735. Driver's Minimum Fee.

(a) Driver's fees in the absence of a contract or special agreement are \$20.00 or 5% of the purse earned, whichever is greater.

(b) The purpose of this rule is not to set a minimum or maximum fee. It provides a fee if the parties have not made a written agreement to the contrary.

(c) A driver's fee is considered earned when the horse he has been engaged to drive leaves the paddock for the post. If there is a substitution of drivers after the fee is earned, no additional driver fee or double driver fee need be paid except when ordered by the stewards.

(d) In this rule "Purse Earned" means the amount paid the winning horse less the fees paid by the owner to enter the horse in the race.

(e) If the parties agree on the fee to be paid the driver, a contract or agreement in writing signed by the driver or his agent and the owner or his authorized agent specifying the agreed upon fee shall be delivered to the paymaster of purses before the running of the race in question. The paymaster of purses shall debit the owner's purse account under the contract or written agreement. If no contract or written agreement is submitted before the running of the race in question, the paymaster of purses shall debit the owner's purse account under the fee scale set forth in this rule.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 8-15-74; effective thirtieth day thereafter (Register 74, No. 33).
2. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1736. Selecting Positions of Entered Horses for Harness Races.

Notwithstanding Rule 1598 of this division, post positions of entered horses in a harness race are determined by lot unless assigned under the conditions of the race.

NOTE: Authority cited: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code. Reference: Article IV of Section 19b, California Constitution, and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Change without regulatory effect amending section filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

Article 10. Quarter Horse Racing Rules

§ 1740. Quarter Horse Rules.

The quarter horse racing rules in this article shall apply to quarter horse races in addition to other rules in this division.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1741. Timing of Race.

Quarter horse races shall be started from a gate and shall be timed from the post at which the starting gate is placed from the time at which the starting gate stall doors are opened.

§ 1742. Apprentice Allowance.

No quarter horse racing association is required to grant an apprentice allowance for any race.

§ 1743. Thoroughbred and Appaloosa Horses Competing in Quarter Horse Races.

a) Thoroughbred and Appaloosa horses may be entered in Quarter Horse races under the following conditions:

- 1) Such races are held at Quarter Horse meets, mixed breed meets, and fair meets.
- 2) Such races do not exceed a distance of five (5) furlongs.
- 3) A Quarter Horse race in which Thoroughbreds and Appaloosas compete shall be designated as a Quarter Horse race.
- 4) Thoroughbreds shall constitute less than half the number of horses in such races.
- 5) A maiden Thoroughbred or a maiden Appaloosa competing in and winning a Quarter Horse race loses its maiden status for all future races regardless of the value of the purse to the winner.
- 6) A Thoroughbred or an Appaloosa competing in and winning a Quarter Horse race at a Quarter Horse race meeting, fair or mixed race meeting shall not be penalized for winning in races run thereafter at any Thoroughbred or mixed race meeting if the net winning purse to such horse is \$2,750 or less.

7) No claim for an apprentice allowance may be made for a Thoroughbred or an Appaloosa competing in a Quarter Horse race unless the conditions for the race provide for such an allowance for all competing horses in the race.

8) No Thoroughbred or Appaloosa will run in a Quarter Horse race unless the past performance of the Thoroughbred or Appaloosa is published in a recognized racing publication or in the official program.

9) The Racing Secretary shall provide information to recognized racing publications or the official program about the past performance of Thoroughbred and Appaloosa horses who have competed in previous Quarter Horse races.

b) The association which conducts the meeting shall, as provided in subdivision (b) of Business and Professions Code Section 19613, pay to

the horsemen's organization representing Thoroughbred horsemen an amount for administrative expense and services rendered to horsemen equivalent to 1.5 percent of the amount available to Thoroughbred horses for purses, and an amount for a pension plan for backstretch personnel to be administered by the horsemen's organization equivalent to an additional 1 percent of the amount available to the Thoroughbred horses for purses. The remainder of the portion shall be distributed as purses.

c) Any redistributable money paid to the Board pursuant to Business and Professions Code Section 19641 which is paid to a welfare fund established by a horsemen's organization from races with both Thoroughbred and Quarter Horses shall be divided pro rata between the two welfare funds based on the number of Thoroughbreds and Quarter Horses in the race.

d) Notwithstanding the composition of the qualifying field, payments made to horsemen's associations as specified in Business and Professions Code Section 19533(b) shall be made on the proportional basis of the horses officially starting the race.

NOTE: Authority: Sections 19420, 19440 and 19533, Business and Professions Code. Reference: Sections 19420, 19440 and 19533, Business and Professions Code.

HISTORY

1. New section filed 10-23-91; operative 11-22-91 (Register 92, No. 5).
2. Repealer and new section filed 3-30-93; operative 3-30-93 (Register 93, No. 14).

Article 10.5. Mule Racing

§ 1747. Mule Racing Rules.

The mule racing rules in this article shall apply to mule racing in addition to other rules in this division.

NOTE: Authority cited: Sections 19440 and 19703, Business and Professions Code. Reference: Sections 19440 and 19703, Business and Professions Code.

HISTORY

1. New article 10.5 (sections 1747-1748) and section filed 10-25-2007; operative 11-24-2007 (Register 2007, No. 43).

§ 1748. Shoeing Mules.

A mule that is not shod is eligible to start in a race.

NOTE: Authority cited: Sections 19420 and 19703, Business and Professions Code. Reference: Section 19703, Business and Professions Code.

HISTORY

1. New section filed 10-25-2007; operative 11-24-2007 (Register 2007, No. 43).

Article 11. Objections and Protests; Appeals

§ 1750. Stewards to Make Inquiry.

The stewards shall make diligent inquiry into any objection or protest made either upon their own motion, by any racing official, or by any other person empowered by this division to make such protest or objection.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 1-6-94; operative 2-7-94 (Register 94, No. 1).

§ 1751. Objections.

Objections to the participation of a horse entered in any race shall be made to the stewards and confirmed in writing by the objector. An objection to a horse entered in a race shall be made not later than one hour before the scheduled post time of the race in which such horse is entered, except that the stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

§ 1752. Grounds for Objection.

An objection to a horse which is entered to race shall be made on the following grounds or reasons:

(a) A misstatement, error or omission in the entry under which a horse is to run.

(b) That the horse which is entered to run is not the horse it is represented to be at the time of entry, or that the age is erroneously given.

(c) That the horse is not qualified to enter under the conditions specified for the race, or that the allowances are improperly claimed or not entitled the horse, or that the weight to be carried is incorrect under the conditions of the race.

(d) That the horse is owned in whole or in part by a person ineligible to participate in racing or otherwise ineligible to own a race horse as provided in this Division.

(e) That the horse was entered without regard to an existing lien as otherwise prohibited in this Division.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19420, 19440 and 19562, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending subsections (d) and (e) and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1753. Horse Subject to Objection Ineligible to Start.

The stewards may declare from the race any horse which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

§ 1754. Protests.

A protest against any horse which has started in a race, shall be made to the stewards in writing, signed by the protestor, no later than seventy-two (72) hours after the race is declared official excluding non-racing days of the meeting. If the incident the protest is based upon occurs within the last two (2) days of the race meeting, the protest may be filed with the Executive Director of the Board no later than seventy-two (72) hours after the race is declared official excluding Saturdays, Sundays or official holidays. Upon receipt of the protest the Executive Director will assign the protest to an active board of stewards. Protests shall state the specific reason or reasons in such detail to establish probable cause for the protest.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19420, 19440 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 9-18-95; operative 10-18-95 (Register 95, No. 38).

§ 1755. Grounds for Protest.

A protest to the stewards may be made on any of the following grounds:

(a) Any ground for objection as set forth in this Article.

(b) The official order of finish, as determined by the stewards, was incorrectly posted.

(c) A jockey, driver, trainer or owner of a horse which started in the race was ineligible to participate in racing as provided in this Division.

(d) The weight carried by a horse was improper, by reason of fraud or willful misconduct.

(e) An unfair advantage was gained in violation of the rules.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19420, 19440 and 19562, Business and Professions Code.

HISTORY

1. Amendment filed 9-18-95; operative 10-18-95 (Register 95, No. 38).

§ 1756. Persons Empowered to File Objection or Protest.

A jockey, driver, trainer or owner of a horse which is entered for or is a starter in a race is empowered to file an objection or protest against any other horse in such race upon the grounds set forth in this article for objections and protests.

§ 1757. No Limitation on Time to File When Fraud Alleged.

Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the stewards are satisfied that the allegations are bonafide and susceptible of verification.

§ 1758. Inaccurate Protest.

No person shall file any objection or protest knowing the same to be inaccurate, false, or untruthful.

§ 1759. Horse to Be Disqualified on Valid Protest.

If a protest against a horse which has won or which has placed in any race is declared valid, that horse may be disqualified and the other horses in the race are entitled to places in the order in which they finished. A horse so disqualified is a starter in the said race and may be placed last in the order of finish, or behind a horse interfered with.

§ 1760. Purse Award or Prize to Be Withheld.

The stewards or the Board may order any purse, award or prize for any race withheld from distribution pending the determination of any protest; and in the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award or prize, the stewards or the Board may order such purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be suspended until its return.

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§ 1761. Appeal from Decision of Stewards.

(a) From every decision of the stewards, except a decision concerning the disqualification of a horse due to a foul or a riding or driving infraction, an appeal may be made to the Board.

(b) Appeals shall be made in writing, stating the reason or reasons for the appeal, and shall be signed by the appellant, appellant's attorney, or appellant's representative. Appeals shall be received by a Board employee at any of its offices, not later than seventy-two (72) hours from the date of the decision of the stewards unless the Board for good cause extends the time for filing.

(c) An appeal shall not affect a decision of the stewards until the appeal has been sustained or dismissed or a stay order issued by the Chairman. NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Section 19517, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 3-3-94; operative 4-4-94 (Register 94, No. 9).
2. Amendment of section and NOTE filed 12-13-95; operative 1-12-96 (Register 95, No. 10).

§ 1762. Temporary Stay Order.

(a) The Executive Director upon the direction of the Chairman, or in the absence of the Chairman any Commissioner, may issue a temporary stay order to stay execution of any ruling, order or decision of the stewards, other than a stay of a decision pertaining to the finish of a race for pari-mutuel pool distribution.

(b) An application for a temporary stay pending a hearing shall include facts and reasons to justify the issuance of the stay. Applications for a temporary stay order shall be filed with any office of the Board.

(c) The granting of a temporary stay order carries no presumption that the stayed decision of the stewards is or may be invalid.

(d) A temporary stay order may be dissolved at any time by order of the Chairman or his designee.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Amendment filed 10-6-78; effective thirtieth day thereafter (Register 78, No. 40).
2. Change without regulatory effect amending section and adopting NOTE filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1763. Decision upon Appeal.

The Board shall issue its decision upon any appeal in writing and such decision is subject to review by the court having jurisdiction.

§ 1764. Appearance at Hearing upon Appeal.

The Board shall notify the appellant, the stewards and all licensees or other persons affected by decision under appeal of the date, time and location of its hearing in the matter. The burden shall be on the appellant to prove the facts necessary to sustain the appeal.

§ 1765. Complaints.

Complaints filed with the stewards, in writing by any person, which allege misconduct or a violation of this division or the Horse Racing Law by any licensee or which allege or indicate improper activities or detrimental conduct on the part of any licensee, shall be referred to the Board and investigated by the Board or its investigators when there is sufficient reason to believe that such complaints are bonafide and subject to verification.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 1-6-94; operative 2-7-94 (Register 94, No. 1).

§ 1766. Designated Races.

(a) The Board of Stewards appointed for a race meeting shall, immediately prior to the commencement of that meeting, designate the stakes,

futurities or futurity trials or other races in which a jockey or a driver who is under suspension for ten (10) days or less for a riding or driving infraction will be permitted to compete, notwithstanding the fact that such jockey or driver is technically under suspension at the time the designated race is to be run.

(b) Official rulings for riding or driving infractions of ten (10) days or less shall state: "The term of this suspension shall not prohibit participation in designated races in California." However, the Board of Stewards may prohibit a jockey or a driver from participating in designated races if such jockey or driver has previously been suspended at least twice during the race meeting specified in subsection (a) of this rule.

(c) Prior to the commencement of a meeting, a listing of the races designated in accordance with subsection (a) of this rule shall be submitted in writing to the Board. A copy of the list of designated races shall be posted in the Jockey or Driver's Room, and any other such place deemed appropriate by the stewards.

(d) A suspended jockey or driver must be named at time of entry to participate in any designated race.

(e) A day in which a suspended jockey or driver participates in one designated race in California shall count as a suspension day.

(f) A day in which a suspended jockey or driver participates in more than one designated race in California shall not count as a suspension day.

(g) Notwithstanding the above, a day in which a jockey or a driver participates in one or more designated races in another jurisdiction while under suspension in California shall not count as a suspension day.

NOTE: Authority cited: Section 19460, Business and Professions Code. Reference: Sections 19460, 19461 and 19520, Business and Professions Code.

HISTORY

1. New section filed 3-8-93; operative 4-7-93 (Register 93, No. 11).

Article 12. Colors, Stable Names, Agents**§ 1780. Registration of Colors.**

Racing colors shall be registered with the clerk of the course when registering a horse within an inclosure, and authority for the use of such colors must be sanctioned by the Board. No colors may bear any symbols or markings which could be interpreted as for advertising purposes. Any difference between claimants to the right of particular colors shall be decided by the stewards. The registered colors of an owner may not be registered by another, except after five years of non-use or abandonment by the registering owner. Any temporary change from the registered colors of the owner must be approved by the stewards.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 1-6-94; operative 2-7-94 (Register 94, No. 1).

§ 1781. Responsibility for Colors.

The owner is responsible for the registration of colors and for their availability to and use by the jockey engaged to ride his horse. The stewards may make a temporary substitution of colors when necessary.

§ 1782. Program to Note Owner's Colors.

The colors to be worn by each jockey in a race shall be described in the official racing program and any change in such colors from those described in the program shall be announced to the public prior to the commencement of the race.

§ 1783. Registration of Stable Names and Stable Name Groups.

(a) A licensed owner may register a stable name with the Board by filing an application and paying the fee for such stable name.

(1) A stable name is subject to the approval of the Board.

(2) No person may register more than one stable name at the same time.

(3) No person may use the real name of any owner of racehorses as his stable name.

(4) No stable name registration may be used for advertising purposes.

(5) A stable name that has already been registered may not be registered by another owner.

(b) A licensed owner may register a stable name group with the Board by filing an application and paying the fee for the stable name group. The stable name group shall be subject to Subparagraphs (a)(1) through (a)(5) above. The stable name group may establish multiple entities that shall run under the name of the registered stable name group.

(1) Each entity shall be registered, as applicable, in accordance with Rule 1481; Rule 1506; Rule 1507 and Rule 1784 of this division.

(2) The entity shall name the horse(s) it owns, and such horse(s) shall be owned separately from the other entities within the stable name group.

(3) Each entity shall possess a unique roster of owners. The roster shall name each owner and state if the owner is a general or a limited partner as well as the percentage of ownership of each. The roster shall be filed with the racing office and with the Board's occupational licensing office.

(4) A licensed owner may participate in the horse ownership of one or more entities that run under a stable name group.

(A) A partner whose ownership interest in an entity that runs under a stable name group is 10 percent or less of such entity may elect not to obtain a license as horse owner. For the purposes of this regulation, such partner shall be considered a limited partner. However, the partner may elect at any time to obtain a license as horse owner, and for the purposes of this regulation, shall then be considered a general partner.

(5) A partner who owns 10 percent or less of an entity that runs under a stable name group is not subject to the provisions of Rule 1606 of this division when a horse owned by the entity in which the partner participates is entered to race in the same race in which the partner has ownership interest in another horse that is entered to race.

(c) The granting of a stable name or stable name group registration by the Board shall not relieve any person from his obligation to file or register a fictitious name as provided by the laws of the State of California.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19460 and 19520, Business and Professions Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 7-10-2008; operative 8-9-2008 (Register 2008, No. 28).

§ 1784. Registration to Disclose All Partners.

(a) An application to register a stable name shall disclose the real names of all partnership or ownership interests participating in the stable and the percentage of ownership interest of each, including the interest owned by any corporation, limited liability company (Corporations Code section 17000 et seq.), general partnership, limited partnership, trust, estate, person or individual.

(b) A registered stable name group shall comply with the provisions of subparagraph (a) of this regulation for each entity that runs under the stable name group.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19460 and 19520, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 8-14-98; operative 9-13-98 (Register 98, No. 33).
2. New subsection (b) filed 7-10-2008; operative 8-9-2008 (Register 2008, No. 28).

§ 1785. Reciprocity of Stable Name Registration.

HISTORY

1. Repealer filed 11-4-82; designated effective 12-15-82 (Register 82, No. 45).

§ 1786. Change of Stable Name Registration or Ownership of Stable.

(a) A stable name may be changed at any time by registering a new stable name and by paying the fee as set by the Board.

(b) A stable name registration may be abandoned, or an expired stable name registration may be transferred to a new owner by giving written notice to the Board and to the stewards. A stable name registration that has expired, and has remained unregistered for at least three consecutive years, shall be considered abandoned.

(c) Any change in ownership, in whole or in part, of a currently registered stable name shall be immediately reported in writing to the Board and to the stewards. If the stable consists of multiple owners, the notification must be signed by at least the designated person responsible for the stable's conduct as listed on the stable name registration form and the person whose name is being removed, or added. A signature must be notarized if the person who signs is not present when the notification is presented to the Board.

NOTE: Authority cited: Sections 19440 and 19520, Business and Professions Code. Reference: Sections 19440, 19520 and 19521, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 8-10-93; operative 9-9-93 (Register 93, No. 33).
2. Amendment of subsection (c) filed 10-21-96; operative 11-20-96 (Register 96, No. 43).

§ 1787. Limitation of Use of Stable Name.

No owner may use his real name for racing purposes if he has a registered stable name, except with approval of the stewards or the Board.

§ 1788. Authorized Agent Registration.

A licensed owner may register his authorized agent by filing a registration of authorized agent with the Board and by paying the fee set by the Board. No person shall be registered as an authorized agent who is ineligible for a license. An authorized agent may act for the registering owner as set forth in the registration form.

§ 1789. Prohibited Acts of Agent.

No authorized agent may sign on behalf of any owner the certificate of registration for any horse in the absence of a valid power of attorney authorizing such signature.

§ 1790. Jockey Agent.

A jockey agent is the authorized representative of a jockey if he is registered with the stewards as his representative by the employing jockey. No jockey agent shall represent more than two jockeys at the same time except with permission of the stewards who may also limit a jockey agent to the representation of one jockey if circumstances so warrant. Jockeys are bound by agreements made on their behalf by their agents.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. Amendment filed 4-12-79; effective thirtieth day thereafter (Register 79, No. 15).

§ 1791. Records Required of Jockey Agents.

Every jockey agent shall maintain a record of all engagements made for the jockeys he represents, and such record shall specify first, second or third calls in each race. The officials may require that the jockey agent file his first, second or third calls with the Racing Secretary and may require the jockey agent to display his record of engagements. A trainer or owner may demand a written confirmation of an engagement from a jockey or his agent. Conflicting claims for the services of a jockey shall be decided by the stewards.

§ 1792. Acting As Jockey Agent.

No person other than a licensed jockey agent shall make engagements for a jockey, except that the holder of a contract of any jockey or apprentice jockey, or his authorized agent, may make engagements for the jockey under contract. A jockey may make his own engagements.

§ 1793. Stable Agent.

A stable agent is the authorized representative of a stable or an owner, who is licensed as a stable agent by the Board. A stable agent may act on behalf of a stable or owner in the entry of horses, the deposit of funds with the Paymaster of Purses on behalf of the stable, in the engagement of a jockey, and in such other matters as authorized by the owner or stable.

§ 1794. Prohibited Acts of Stable Agent.

No stable agent shall be eligible to withdraw any funds of the owner or stable from the association, or file any claim in any claiming race, or

sign on behalf of the owner or stable any certificate of registration of any horse in the absence of a valid power of attorney authorizing such signature.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adopting NOTE filed 5-6-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 18).

Article 13. Bloodstock Agents

§ 1800. Bloodstock Agents.

For the purpose of this article, a bloodstock agent is defined as any person who for gain, gratuity, commission or reward, in either money or goods, acts as an agent for the sale or purchase of any race horse not his own which is eligible to race at an authorized race meeting in this State.

§ 1801. Bloodstock Agents to Register.

Every bloodstock agent who offers for sale, offers to purchase for a client, or his own account for resale within 60 days, or offers his service as an agent in the purchase or sale of any race horse not his own which is eligible to race in this State, shall register with the Board on registration forms provided by the Board.

§ 1802. Sales with Warranties.

Every bloodstock agent who participates as an agent in the purchase or sale of any race horse where any warranty of soundness, condition or racing ability is expressed or implied shall file with the Board within five days of the date of sale a memorandum report of warranty which shall set forth the warranties expressed or implied. In the absence of any such filing it shall be presumed that no warranties were expressed or implied by the seller. A memorandum report of warranty shall be signed by both seller and purchaser or by the bloodstock agents acting in their behalf.

§ 1803. Sales with Conditions.

Every bloodstock agent who participates as an agent in the purchase or sale of any race horse eligible to race in this State where any condition of such purchase or sale includes any lien upon such horse by the seller or other person shall file a memorandum report of conditional sale with the Board within five days of the date of sale.

§ 1804. Misrepresentations.

No bloodstock agent shall misrepresent any material fact, nor shall he withhold any material fact which he knows, from any person connected with the sale of a horse; nor shall any bloodstock agent misrepresent his personal interest in any horse.

§ 1805. Failure to Comply with Regulations.

Any bloodstock agent or licensee who violates any provision of this article shall be refused admission to all private areas or restricted areas of the inclosure.

§ 1806. Auction Sales.

The provisions of this article shall not apply to auction sales which are authorized and/or approved by the Board; provided, however, that any warranty or condition of sale set forth in any sale catalog, printed offer of sale or sales agreement shall be considered as a memorandum report of warranty or condition of sale, whether or not filed with the Board.

Article 13.5. Authorized Horse Sales

§ 1807. Authorized Horse Sales.

Upon application by a recognized breeder's association, sales organization, or any other person, the Board may authorize a horse sale or horse auction sale for the sale of race horses or breeding stock that is used in the production of race horses, to be held on the premises of a racing association, and the authorization and approval of such horse sale or horse

auction sale shall be upon such conditions as may be imposed by the Board.

NOTE: Authority cited: Section 19(b) of Article IV, California Constitution and Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New Article 13.5 (Sections 1807, 1808, and 1809) filed 1-9-74, as an emergency; effective upon filing (Register 74, No. 2).
2. Certificate of Compliance filed 2-15-74 (Register 74, No. 7).
3. Amendment filed 2-15-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 7)

§ 1808. Medications Prior to Sale.

(a) Persons owning or having care, custody or control over a horse offered for sale at an authorized horse sale or horse auction sale under the jurisdiction of the Board shall not administer to the horse any substance which is recognized as an injectable, oral or topical medication or drug within 72 hours of the time the horse is offered for sale unless the administration of the medication or drug is reported to the official veterinarian appointed by the Board to act at the authorized horse sale or horse auction sale before the sale of the horse in a manner as the official veterinarian may direct.

(b) Upon request of a prospective purchaser of a horse offered for sale at an authorized horse sale or horse auction sale, the official veterinarian shall make available to the prospective purchaser the report of medication administered to the horse.

(c) Compliance with this rule is the responsibility of the consignor of the horse and/or the person(s) having the care, custody or control of the horse. Violation of this rule is punishable by the Board by fine or in a manner determined by the Board.

NOTE: Authority cited: Sections 19420, 19440 and 19580, Business and Professions Code. Reference: Sections 19420, 19440 and 19580, Business and Professions Code; and Section 24011, Food and Agricultural Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1809. Post-Sale Tests.

The official veterinarian at any authorized horse sale or horse auction sale may administer a blood test to any horse sold at such sale and shall make such test at the request of the purchaser of the horse, and the blood sample shall be delivered to the official laboratory approved by the Board for analysis.

Article 14. California-Bred Awards

§ 1810. California-Bred Horse.

HISTORY

1. Repealer filed 9-15-82; effective thirtieth day thereafter (Register 82, No. 38).

§ 1811. Registration of Cal-Bred.

The breeder or owner of a California-bred horse shall register such horse with the Board recognized agencies for such registration: the California Thoroughbred Breeders Association if a Thoroughbred, the California Harness Horse Breeders Association if a Standardbred, the Pacific Coast Quarter Horse Racing Association if a Quarter Horse, the Cal-Western Appaloosa Racing, Inc., if an Appaloosa, or the Arabian Racing Association of California if an Arabian.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440, 19565, 19566.5 and 19617.7, Business and Professions Code.

HISTORY

1. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-84; effective thirtieth day thereafter (Register 84, No. 3).
3. Amendment of section and NOTE filed 8-2-93; operative 9-1-93 (Register 93, No. 32).

§ 1812. Registration Required for Cal-Bred Eligibility.

Unless the breeder or owner of a California-bred horse has registered the same with the official registering agency for the California-bred

horses and attested that the horse is a California-bred, such horse is ineligible for entry in races for California-bred horses. The breeder of such horse is not entitled to a California-bred breeder's award for such horse.

§ 1813. Associations to Program California-Bred Race.

The association shall provide one race on each racing day which is limited to California-bred horses. If, however, sufficient competition cannot be had among horses of that class on any day, it may be canceled with the approval of the stewards. The stewards shall report to the Board the cancellation of such race and the reasons therefore.

(c) The association shall pay a California-bred Breeder's Award which shall amount to 10% of the winning purse of any race won by a California-bred quarter horse pursuant to Section 19567 of the Business and Professions Code. Such funds shall be deposited by the association with the quarter horse official registering agency and distributed as specified in Section 19617.7 of the Business and Professions Code.

§ 1814. California-Bred Breeder's Award.

(a) The association shall pay a California-bred Breeder's Award which shall amount to 10% of the winning purse of any race won by a California-bred standardbred horse, to the registered breeder of such winning horse. Such award shall be paid within 30 days of the close of the meeting from funds generated pursuant to Section 19617.5 of the Business and Professions Code. A horse not properly registered as a California-bred at the time of his winning shall not be entitled to a California-bred award for such race. Standard-bred Sires Stakes Races are exempt from the provisions of this subsection.

(b) The association shall pay a California-bred Breeder's Award which shall amount to 10% of the first and second place money of every purse won by a California-bred arabian horse pursuant to Section 19567 of the Business and Professions Code. Such funds shall be deposited by the association with the arabian official registering agency and distributed as specified in Section 19617.8(c)-(g) of the Business and Professions Code.

(c) The association shall pay a California-bred Breeder's Award which shall amount to 10% of the winning purse of any race won by a California-bred quarter horse pursuant to Section 19567 of the Business and Professions Code. Such funds shall be deposited by the association with the quarter horse official registering agency and distributed as specified in Section 19617.7 of the Business and Professions Code.

(d) The association shall deposit with the thoroughbred official registering agency, a portion of its handle pursuant to the provisions of Section 19617.2 of the Business and Professions Code, which shall be distributed as California-bred Breeder's Awards to the registered breeder of California-bred thoroughbred horses finishing first, second or third in any race run in this state, and to the registered breeder of California-bred thoroughbred horses finishing first, second or third in all graded stakes races run in the United States.

(e) The thoroughbred official registering agency shall distribute annually, California-bred Breeder's Awards to the registered breeders of California-bred thoroughbred horses pursuant to the provisions of Section 19617 of the Business and Professions Code.

(f) The association shall deposit with the appaloosa official registering agency, a portion of its handle pursuant to the provisions of Section 19617.9(b) of the Business and Professions Code, which shall be distributed as California-bred Breeder's Awards to the registered breeder of California-bred appaloosa horses. The Breeder's Award shall be a prorated share of the first and second earnings in any race run in this state as provided in Section 19617.9(c) and (d) of the Business and Professions Code.

NOTE: Authority cited: Sections 19567, 19617, 19617.2, 19617.5, 19617.7 and 19617.8, Business and Professions Code. Reference: Sections 19567, 19617, 19617.2, 19617.5, 19617.7, 19617.8 and 19617.9, Business and Professions Code.

HISTORY

1. Amendment filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
2. Amendment of subsection (b), new subsection (f) and amendment of NOTE filed 6-21-96; operative 7-21-96 (Register 96, No. 25).

3. Change without regulatory effect amending subsection (b) and NOTE filed 6-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 26).

§ 1815. Decision As to Eligibility of Cal-Bred.

Questions as to the registration, eligibility for registration, or breeding of a California-bred horse shall be decided by the official registering agency designated by the Board. The official registering agency may demand and inspect any registration certificate or record of a California breeder and may require affidavits in support of any claim for California-bred registration. Questions as to the eligibility for, nomination or entry to a race restricted to California-bred horses which is sponsored by the official registering agency shall be decided by the official registering agency. A decision of the official registering agency shall be subject to review by the Board which retains the right to make the final decision as to any right or liability under this article.

NOTE: Authority cited: Sections 19562 and 19565, Business and Professions Code. Reference: Sections 19562 and 19565, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1816. List of California-Breeds Admitted to Grounds.

HISTORY

1. Repealer filed 1-9-96; operative 2-8-96 (Register 96, No. 2).

§ 1817. California Stallion Award.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1818. Definitions.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1819. Thoroughbred Breeders and Stallion Awards.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1820. Sire Owned by More Than One Individual or Entity.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1821. Preparation and Distribution of Stallion Award Claims.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1822. Filing of Verified Claim for Stallion Awards.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1823. Failure to Comply.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1824. Filing of Stallion Report.

HISTORY

1. Repealer filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1825. Disputes with Respect to Stallion Awards.

Any dispute with respect to stallion awards must be submitted in writing to the Board in such manner and at such time as to permit the Board, in the exercise of reasonable diligence, to determine the same prior to the time at which distribution of such award would be made pursuant to this article. The Board's decision in such matter shall be final and binding upon the parties.

Article 15. Veterinary Practices

§ 1840. Veterinary Practices and Treatments Restricted.

No person other than California-licensed veterinarians who have obtained a license from the Board shall administer to any horse within the inclosure any veterinary treatment or any medicine, medication, or other

substance recognized as a medication, except for recognized feed supplements or oral tonics or substances approved by the official veterinarian, or except under the direction or prescription of a veterinarian licensed by the Board.

§ 1841. Veterinarians Under Supervision of Official Veterinarian.

Veterinarians licensed by the Board and practicing at an authorized meeting are under the supervision of the official veterinarian and the stewards. The official veterinarian shall recommend to the stewards or the Board the discipline to be imposed upon a veterinarian who violates the rules and he may sit with the stewards in any hearing before the stewards concerning such discipline or violation.

§ 1842. Veterinarian Report.

Every veterinarian who treats a horse within the inclosure shall, in writing on a form prescribed by the Board, report to the official veterinarian in a manner prescribed by him, the name of the horse treated, the name of the trainer of the horse, the time of treatment, and any other information requested by the official veterinarian. Any such report is confidential and its content shall not be disclosed except in a proceeding before the stewards or the Board, or in exercise of the Board's jurisdiction.

§ 1843. Medication, Drugs and other Substances.

It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:

(a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.

(b) No drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided in these rules.

(c) No person other than a licensed veterinarian or animal health technician shall have in his/her possession any drug substance which can be administered to a horse, except such drug substance prescribed by a licensed veterinarian for a specific existing condition of a horse and which is properly labelled.

(d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal, anti-inflammatory drug substance, or a finding of a drug substance in excess of the limit established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered to the horse.

NOTE: Authority cited: Sections 19440, 19580, 19581 and 19582, Business and Professions Code. Reference: Sections 337(f), (g), and (h), Penal Code; and Sections 19401, 19440, 19580, 19581 and 19582, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
2. Amendment of section heading, text and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ 1843.1. Prohibited Drug Substances.

For purposes of this division, prohibited drug substance means:

(a) any drug, substance, medication or chemical foreign to the horse, whether natural or synthetic, or a metabolite or analog thereof, whose use is not expressly authorized in this article.

(b) any drug, substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in this article.

NOTE: Authority cited: Sections 19440, 19562, 19580 and 19581, Business and Professions Code. Reference: Sections 19440, 19562, 19580 and 19581, Business and Professions Code.

HISTORY

1. New section filed 10-7-94; operative 11-7-94 (Register 94, No. 40).

§ 1843.2. Classification of Drug Substances.

The Board, the board of stewards, the hearing officer, or the administrative law judge, when adjudicating a hearing for a violation of Business and Professions Code section 19581, shall consider the classification of the substance as referenced in the California Horse Racing Board (CHRB) Penalty Categories Listing by Classification (Revised 05/08), hereby incorporated by reference, which is based on the Association of Racing Commissioners International (ARCI) Uniform Classification Guidelines for Foreign Substances (4/05), as modified by the Board.

NOTE: Authority cited: Sections 19580, 19581 and 19582, Business and Professions Code. Reference: Sections 19580, 19581 and 19582, Business and Professions Code.

HISTORY

1. New section filed 8-7-95; operative 9-6-95 (Register 95, No. 32).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
3. Amendment filed 5-23-2008; operative 5-23-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 21).
4. Amendment filed 8-4-2008; operative 8-4-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 32).

§ 1843.3. Penalties for Medication Violations.

(a) In reaching a decision on a penalty for a violation of Business and Professions Code section 19581, the Board, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in subsections (d) and (e) of this Rule and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors may increase the penalties beyond the minimum.

(b) Mitigating circumstances and aggravating factors, which must be considered, include but are not limited to:

(1) The past record of the licensee regarding violations of Business and Professions Code section 19581;

(2) The potential of the drug(s) to influence a horse's racing performance;

(3) The legal availability of the drug;

(4) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) The steps taken by the trainer to safeguard the horse;

(6) The steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer;

(A) For the purpose of this regulation "unaffiliated trainer" means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed by the trainer from whose care such horse(s) were transferred.

(7) The probability of environmental contamination or inadvertent exposure due to human drug use or other factors;

(8) The purse of the race;

(9) Whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined through the process described in Rule 1842 of this division;

(10) Whether there was any suspicious wagering pattern on the race;

(11) Whether the licensed trainer was acting under the advice of a licensed veterinarian.

(c) For the purpose of this regulation, the Board shall consider the classification of a drug substance as referred to in Rule 1843.2 of this division and the California Horse Racing Board (CHRB) Penalty Categories Listing By Classification, (1/08), which is hereby incorporated by reference, if a determination is made that an official test sample from a horse contained:

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this division, or

(2) Any drug substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in the article.

(d) Penalties for violation of each classification level are as follows:

CATEGORY "A" PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category A penalty are as follows:

LICENSED TRAINER:		
1st offense	2nd LIFETIME offense	3rd LIFETIME offense
<ul style="list-style-type: none"> ◦ <u>Minimum one - year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$10,000 or 10% of gross purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$25,000 or 25% of purse (greater of the two).</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>May be referred to the Board for any further action deemed necessary by the Board.</u> 	<ul style="list-style-type: none"> ◦ <u>Minimum two-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three-year suspension.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$20,000 or 25% of gross purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$50,000 or 50% of purse (greater of the two).</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>May be referred to the Board for any further action deemed necessary by the Board.</u> 	<ul style="list-style-type: none"> ◦ <u>Minimum three -year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of permanent license revocation.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$25,000 or 50% of gross purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$100,000 or 100% of purse (greater of the two).</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>May be referred to the Board for any further action deemed necessary by the Board.</u>
LICENSED OWNER:		
1st offense	2nd LIFETIME offense in owner's stable	3rd LIFETIME offense in owner's stable
<ul style="list-style-type: none"> ◦ <u>Disqualification of horse and loss of purse.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse may be placed on the veterinarian's list for up to 90 days and must pass a Board - approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u> 	<ul style="list-style-type: none"> ◦ <u>Disqualification of horse and loss of purse.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse shall be placed on the veterinarian's list for up to 120 days and must pass a Board - approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u> 	<ul style="list-style-type: none"> ◦ <u>Disqualification of horse, loss of purse and absent mitigating circumstances, minimum fine of \$10,000. The presence of aggravating factors could be used to impose a maximum fine of \$50,000.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse shall be placed on the veterinarian's list for up to 180 days and must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Referral to the Board with a recommendation of a suspension of owners license for a minimum of 90 days.</u>

CATEGORY "B" PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category B penalty are as follows:

LICENSED TRAINER:		
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
<ul style="list-style-type: none"> ◦ <u>Minimum 30 -day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension.</u> <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$10,000.</u> 	<ul style="list-style-type: none"> ◦ <u>Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension.</u> <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$1,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$20,000.</u> 	<ul style="list-style-type: none"> ◦ <u>Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one-year suspension.</u> <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> ◦ <u>Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$50,000 or 10% of purse (greater of the two).</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>May be referred to the Board for any further action deemed necessary by the Board.</u>
LICENSED OWNER:		
1st offense	2nd offense in stable (365-day period)	3rd offense in stable (365-day period)
<ul style="list-style-type: none"> ◦ <u>Disqualification of horse and loss of purse.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u> 	<ul style="list-style-type: none"> ◦ <u>Disqualification of horse and loss of purse.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u> 	<ul style="list-style-type: none"> ◦ <u>Disqualification of horse, loss of purse and absent mitigating circumstances minimum fine of \$5,000. The presence of aggravating factors could be used to impose a maximum fine of \$20,000.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Horse shall be placed on the veterinarian's list for up to 45 days and must pass a Board-approved examination pursuant to Rule 1846 before becoming eligible to be entered.</u> <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ◦ <u>Be subject to drug testing at the owner's expense and be negative for prohibited drug substances as defined in Rule 1843.1.</u>

CATEGORY "B" PENALTIES FOR RULE 1843.6 TOTAL CARBON DIOXIDE (TCO₂) TESTING

Penalties for violations due to exceeding permitted levels of TCO₂ as defined in Rule 1843.6 are as set forth below. All concentrations are for measurements in serum or plasma.

LICENSED TRAINER:		
1st offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Up to a 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$1,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$5,000. 	2nd offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 120-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$10,000. 	3rd offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$15,000.
LICENSED OWNER:		
1st offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	2nd offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	3rd offense TCO₂ (> 37.0mm/l- <39mm/l) <ul style="list-style-type: none"> Disqualification of horse, loss of purse and in the absence of mitigating circumstances, \$2,500 fine.
LICENSED TRAINER:		
1st offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$2,500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$10,000. 	2nd offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Minimum 60-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$15,000. 	3rd offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Minimum 90-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 365-day suspension. <p style="text-align: center;">AND/OR</p> <ul style="list-style-type: none"> Minimum fine of \$10,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$25,000.
LICENSED OWNER:		
1st offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	2nd offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Disqualification of horse and loss of purse. 	3rd offense TCO₂ (≥ 39.0mm/l) <ul style="list-style-type: none"> Disqualification of horse, loss of purse and a fine ranging from a minimum of \$5,000, up to a maximum of \$20,000.

CATEGORY "C" PENALTIES

Penalties for violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category C penalty and for the presence of more than one non-steroidal anti-inflammatory (NSAID) in a plasma/serum sample, as defined in Rule 1844 of this division, and furosemide as defined in Rule 1845 of this division in an official test sample are as set forth below. All concentrations are for measurements in serum or plasma.

LICENSED TRAINER:		
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
◦ <u>Minimum fine of \$500 to a maximum fine of \$1,000 absent mitigating circumstances.</u>	◦ <u>Minimum fine of \$1,000 to a maximum fine of \$2,500, and up to a 15 - day suspension absent mitigating circumstances.</u>	◦ <u>Minimum fine of \$2,500 and up to a 30 - day suspension absent mitigating circumstances</u>

CATEGORY "C" PENALTIES FOR RULE 1844, AUTHORIZED MEDICATION (C) (1), (2), (3)

Penalties for violations due to overages for permitted non-steroidal anti-inflammatory drug substances (NSAIDs) as defined in Rule 1844 (c) (1), (2) and (3) of this division. All concentrations are for measurements in serum or plasma.

The official veterinarian shall consult with the treating veterinarian in all violations of 1844 (c). With permission of the official veterinarian the trainer may elect to pay the minimum fine in lieu of a stewards' hearing. If the trainer has not had an 1844 (c) violation within the previous three years, the official veterinarian or the board of stewards may issue a warning in lieu of a fine for violations of 1844 (c)(1), phenylbutazone, provided the reported level is below 7.5mcg/ml.

LICENSED TRAINER:	Phenylbutazone (5.1-<10.0mcg/ml) Flunixin (50-100 ng/ml) Ketoprofen (11-49 ng/ml)	Phenylbutazone (5.1-<10.0mcg/ml) Flunixin (50-100 ng/ml) Ketoprofen (11-49 ng/ml)
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
◦ <u>Minimum fine of \$500 to a maximum fine of \$1,000.</u>	◦ <u>Minimum fine of \$1,000 to a maximum fine of \$2,500.</u>	◦ <u>Minimum fine of \$2,500 to a maximum fine of \$5,000.</u>
LICENSED OWNER:	Phenylbutazone (5.1-<10.0mcg/ml) Flunixin (50-100 ng/ml) Ketoprofen (11-49 ng/ml)	Phenylbutazone (5.1-<10.0mcg/ml) Flunixin (50-100 ng/ml) Ketoprofen (11-49 ng/ml)
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
No penalty administered.	No penalty administered.	No penalty administered.
LICENSED TRAINER:	Phenylbutazone (≥ 10.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)	Phenylbutazone (≥ 10.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
◦ <u>Minimum fine of \$1,000 to a maximum fine of \$2,500.</u>	◦ <u>Minimum fine of \$2,500 to a maximum fine of \$5,000.</u>	◦ <u>Minimum fine of \$5,000 to a maximum fine of \$10,000.</u>
LICENSED OWNER:	Phenylbutazone (≥ 10.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)	Phenylbutazone (≥ 10.0 mcg/ml) Flunixin (≥ 100 ng/ml) Ketoprofen (≥ 50 ng/ml)
1st offense	2nd offense (365-day period)	3rd offense (365-day period)
◦ <u>Horse must pass Board-approved examination pursuant to Rule 1846 before being eligible to run.</u>	◦ <u>Disqualification of horse and loss of purse. If same horse, placed on veterinarian's list for up to 45-days, must pass Board-approved examination pursuant to Rule 1846 before being eligible to run.</u>	◦ <u>Disqualification of horse and loss of purse. Minimum \$5,000 fine. If same horse, placed on veterinarian's list for 60 days, must pass Board-approved examination pursuant to Rule 1846 before being eligible to run</u>

(e) Violations due to the presence of a drug substance in an official test sample, which CHRB drug classification is categorized as warranting a Category “D” penalty, may result in a written warning to the licensed trainer and owner. A Category “D” penalty is a written warning to the licensed trainer or owner.

(f) Any drug or its metabolite or analogue thereof found to be present in an official test sample that is not classified in Rule 1843.2 of this division shall be classified as a Class I substance and a Category “A” penalty until classified by the Board.

(g) The administration of a drug substance to a race horse must be documented by the treating veterinarian through the process described in Rule 1842 of this division.

(h) Any licensee found to be responsible for the administration of any drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer and his presence may be required at any and all hearings relative to the case.

(1) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category “A” shall be referred to the California Veterinary Medical Board (CVMB) for consideration of further disciplinary action.

(2) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category “B” or “C” may be referred to the CVMB for consideration of further disciplinary action upon the recommendation of the Equine Medical Director, the board of stewards or hearing officers.

(i) A licensee who is suspended, or whose license is revoked, because of a medication violation is not able to benefit financially during the period of suspension or revocation. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(j) For the purpose of this regulation “licensed family members” means any person who holds an occupational license issued by the CHRB and who is related to the suspended licensee, or the licensee whose license is revoked, by blood, or by marriage or domestic partnership, or who is related by blood to the spouse or domestic partner of such licensee.

(1) For the purpose of this regulation, licensed trainers suspended 60 days or more, or whose license is revoked, shall be banned from all inclosures under the jurisdiction of the CHRB. In addition, during the period of suspension, or revocation, such trainer shall forfeit all assigned stall space and shall remove from the inclosures all signage, advertisements, training-related equipment, tack, office equipment, and any other property.

NOTE: Authority cited: Sections 19440, 19461 and 19580, Business and Professions Code. Reference: Sections 19461, 19580, 19581 and 19582, Business and Professions Code; and Section 11425.50, Government Code.

HISTORY

1. New section filed 5-23-2008; operative 5-23-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 21).

§ 1843.5. Medication, Drugs and Other Substances Permitted After Entry in a Race.

(a) In this rule a horse is deemed “entered” in a race 48 hours before post time of the running of the race.

(b) Water and feed, including hay, grain, and feed supplements that do not contain prohibited drugs may be provided to the horse up until post time.

(c) Drugs, medications or any other substances shall not be administered by any means to a horse within 48 hours of the post time of the race in which the horse is entered except:

(1) Topical medications, (such as antiseptics, ointments, salves, leg rubs, leg paints, hoof dressings, liniments and antiphlogistics) which do not contain anesthetics or other prohibited drugs.

(d) Any drug, medication or any other substance found in a test sample taken from a horse which is not authorized under this rule shall be deemed a prohibited drug substance.

(e) Any of the following substances may be administered by injection until 24 hours before the post time of the race in which the horse is entered:

- (1) Injectable Vitamins;
- (2) Electrolyte Solutions;
- (3) Amino Acid Solutions;
- (4) Tetanus Antitoxin or Tetanus Toxoid, if the horse has sustained a wound.

(f) Approved anti-ulcer medications may be administered until 24 hours before the post time of the race in which the horse is entered. A list of approved anti-ulcer medications, and route of administration, shall be posted at each racetrack in the office of the official veterinarian.

(g) One of the following non-steroidal anti-inflammatory medications may be administered until 24 hours before the post time of the race in which the horse is entered under Rule 1844 of this division:

- (1) Phenylbutazone;
- (2) Flunixin;
- (3) Ketoprofen.

(h) In addition to the substances named in subsection (c)(1), any of the following substances may be administered under Rule 1845 of this division within 24 hours of the post time of the race in which the horse is entered:

- (1) Furosemide;
- (2) Other Authorized Bleeder Medication.

(i) Drugs, medications or any other substances may not be administered to a horse by injection, via nasogastric tube (stomach tubing) or any other means after the horse is entered to race, except under these regulations.

NOTE: Authority cited: Sections 19580, 19581 and 19582, Business and Professions Code. Reference: Sections 19580, 19581 and 19582, Business and Professions Code; and Section 337(f), (g) and (h), Penal Code.

HISTORY

1. New section filed 8-27-92; operative 9-28-92 (Register 92, No. 35).
2. Amendment of subsections (d) and (e), new subsection (f), subsection relettering, and amendment of newly designated subsections (g) and (h) filed 10-6-98; operative 11-5-98 (Register 98, No. 41).
3. Amendment of section and NOTE filed 4-28-99; operative 5-28-99 (Register 99, No. 18).

§ 1843.6. Total Carbon Dioxide Testing.

(a) At the direction of the official veterinarian, a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board may collect blood sample(s) from a horse for the purpose of testing for total carbon dioxide (TCO₂) concentrations. Such blood sample(s) shall be collected under the provisions of Rule 1859 of this article, and may be collected pre-race or post-race.

(1) The owner or trainer of a horse selected for testing may request that a duplicate sample be taken. Such request shall be made prior to the collection of the official sample. The costs related to obtaining, handling, shipping and analyzing the duplicate sample shall be the responsibility of the owner or trainer who requested such sample.

(2) If the Board in its discretion determines the duplicate sample cannot be analyzed within five days after the sample is collected, the findings of the official sample shall be final.

(b) Any horse on a facility under the jurisdiction of the Board may be selected by the stewards or the official veterinarian for TCO₂ testing.

(c) Any owner, trainer, or other person responsible for a horse who refuses or fails to permit the taking of test sample(s) from such horse shall be deemed in violation of Rule 1930 of this division and shall have the horse declared ineligible to race by the stewards.

(d) TCO₂ levels in the blood serum or plasma shall not exceed:

- (1) 37.0 millimoles per liter of serum or plasma.
- (2) TCO₂ levels in excess of 37.0 millimoles shall be considered a Class three-medication violation for administrative purposes.

(e) The provisions of Rule 1859.25 of this article shall not apply to blood sample(s) collected for TCO₂ testings.

NOTE: Authority cited: Sections 19420, 19440, 19580 and 19582.5, Business and Professions Code. Reference: Sections 19581 and 19582, Business and Professions Code.

HISTORY

1. New section filed 9-13-2005 as an emergency pursuant to Business and Professions Code section 19577(a); operative 9-13-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-11-2006 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-2005 order transmitted to OAL 1-10-2006 and filed 1-20-2006 (Register 2006, No. 3).

§ 1844. Authorized Medication.

Consistent with the intent of these rules, drug substances and medications authorized by the Board for use may be administered to safeguard the health of the horse entered to race provided that:

(a) No person shall administer a drug substance to any horse entered to race except upon authorization of the official veterinarian in conformance with these rules.

(b) No drug substance, other than authorized bleeder medication, shall be administered to a horse entered to race within 24 hours of the race in which entered.

(c) Not more than one approved non-steroidal anti-inflammatory drug substance (NSAID) may be administered to a horse that is entered to race and shall be only one of the following authorized drug substances:

(1) Phenylbutazone in a dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance per milliliter of blood plasma or serum.

(2) Flunixin in a dosage amount that the test sample shall contain not more than 50 nanograms of the drug substance per milliliter of blood plasma or serum.

(3) Ketoprofen in a dosage amount that the test sample shall contain not more than 10 nanograms of the drug substance per milliliter of blood plasma or serum.

(4) Metabolites or analogues of approved NSAIDs may be present in post race test samples.

(d) If the official chemist reports that a blood test sample contains an authorized NSAID in excess of the limit for that drug substance under this rule, the official veterinarian shall, in conjunction with the veterinarian who administered or prescribed the authorized drug substance, establish a dosage amount or time of administration of the drug substance that will comply with the limits under this rule; or the official veterinarian may, if in his/her judgment no such reduced dosage amount or amendment to time of administration will result in a test sample level within the limits of this rule, withdraw authorization for the use of any one NSAID.

(e) Official urine test samples may contain one of the following drug substances, their metabolites or analogs, in an amount that does not exceed the specified levels:

- (1) Acepromazine; 25 nanograms per milliliter
- (2) Mepivacaine; 10 nanograms per milliliter
- (3) Promazine; 25 nanograms per milliliter
- (4) Albuterol; 1 nanogram per milliliter
- (5) Atropine; 10 nanograms per milliliter
- (6) Benzocaine; 50 nanograms per milliliter
- (7) Procaine; 10 nanograms per milliliter
- (8) Salicylates; 750 micrograms per milliliter
- (9) Clenbuterol; 5 nanograms per milliliter
- (10) Stanazolol; 1 nanograms per milliliter
- (11) Nandrolone; 1 nanograms per milliliter for geldings, fillies and mares; 45 nanograms for males other than geldings.
- (12) Boldenone; 15 nanograms per milliliter in males other than geldings.
- (13) Testosterone; 20 nanograms per milliliter in geldings.

(A) Testosterone at any level in males other than geldings is not a violation of this regulation.

(14) Testosterone; 55 nanograms per milliliter in fillies or mares

(f) Official blood test samples may contain clenbuterol in an amount not to exceed 25 picograms per milliliter of serum or plasma.

(g) Official blood test samples shall not contain any of the drug substances, or their metabolites or analogs listed in subsection (e)(1)–(8), and (e)(10)–(14).

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
2. Amendment filed 2-9-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 6).
3. New subsections (d)–(e) and subsection relettering filed 8-3-95; operative 9-2-95 (Register 95, No. 31).
4. Change without regulatory effect adding new subsection (d), amending newly designated subsections (e) and (f), and repealing former subsection (f) filed 6-16-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).
5. Amendment of section and NOTE filed 4-28-99; operative 5-28-99 (Register 99, No. 18).
6. New subsection (e)(9), amendment of subsection (f) and amendment of NOTE filed 1-28-2002; operative 1-28-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 5).
7. Amendment of subsections (c), (c)(2)–(3) and (d)–(e) and amendment of NOTE filed 4-27-2005; operative 5-27-2005 (Register 2005, No. 17).
8. Amendment of subsection (c)(2), new subsection (f), subsection relettering and amendment of newly designated subsection (g) filed 9-20-2007; operative 10-20-2007 (Register 2007, No. 38).
9. New subsections (e)(10)–(e)(14) and amendment of subsection (g) filed 5-1-2008; operative 5-31-2008 (Register 2008, No. 18).

§ 1845. Authorized Bleeder Medication.

Authorized bleeder medication for the control of exercised induced pulmonary hemorrhage (EIPH) may be administered to a horse on the authorized bleeder medication list.

(a) A horse is eligible to race with authorized bleeder medication if the licensed trainer and/or veterinarian determines it is in the horse's best interest. If a horse will race with authorized bleeder medication, form CHRB 194 (New 08/04), Authorized Bleeder Medication Request, which is hereby incorporated by reference, shall be used to notify the official veterinarian prior to entry.

(b) The official laboratory shall measure the specific gravity of post-race urine samples to ensure samples are sufficiently concentrated for proper chemical analysis. The specific gravity of such samples shall not be below 1.010.

(c) If the specific gravity of the post-race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation of furosemide in serum or plasma shall then be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(d) A horse qualified to race with authorized bleeder medication shall be assigned to a pre-race security stall prior to the scheduled post time for the race in which it is entered, and shall remain there until it is taken to the receiving barn or the paddock to be saddled or harnessed for the race. While in the security stall, the horse shall be in the care, custody, control and constant view of the trainer, or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care and handling of the horse while it remains in the security stall. The official veterinarian may permit a horse to leave the security stall to engage in track warm-up heats prior to a race.

(e) A horse qualified for administration of authorized bleeder medication must be treated on the grounds of the racetrack where the horse will

[The next page is 113.]

race no later than four hours prior to post time of the race for which the horse is entered. The authorized bleeder medication, furosemide, shall be administered by a single intravenous injection only, in a dosage of not less than 150 mg. or not more than 500 mg. A horse racing with furosemide must show a detectable concentration of the drug in the post-race serum, plasma or urine sample. The veterinarian administering the bleeder medication shall notify the official veterinarian of the treatment of the horse. Such Notification shall be made using CHRB form-36 (New 08/04), Bleeder Treatment Report, which is hereby incorporated by reference, not later than two hours prior to post time of the race for which the horse is entered. Upon the request of a Board representative, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.

(f) A horse placed on the official authorized bleeder medication list must remain on the list unless the licensed trainer and/or veterinarian requests that the horse be removed. The request must be made using CHRB form 194 (New 08/04), and must be submitted to the official veterinarian prior to the time of entry. A horse removed from the authorized bleeder medication list may not be placed back on the list for a period of 60 calendar days unless the official veterinarian determines it is detrimental to the welfare of the horse. If a horse is removed from the authorized bleeder medication list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(g) If the official veterinarian observes a horse bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH, the horse shall be ineligible to race for the following periods:

- First incident—14 days;
- Second incident within 365-day period—30 days;
- Third incident within 365-day period—180 days;
- Fourth incident within 365-day period—barred for racing lifetime.

For the purposes of counting the number of days a horse is ineligible to run, the day after the horse bled externally is the first day of such period. The voluntary administration of authorized bleeder medication without an external bleeding incident shall not subject a horse to the initial period of ineligibility as defined under this subsection.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

HISTORY

1. Amendment filed 7-11-75; effective thirtieth day thereafter (Register 75, No. 28).
2. Repealer and new section filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
3. Amendment filed 2-9-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 6).
4. Amendment of subsections (e) and (f) filed 8-13-91; operative 9-12-91 (Register 91, No. 50).
5. Amendment of section heading, section and NOTE filed 4-27-2005; operative 5-27-2005 (Register 2005, No. 17).

§ 1846. Racing Soundness Examination.

Each and every horse entered to race shall be subjected to a veterinary examination for racing soundness and health on race day not later than two hours prior to official post time for the race in which the horse is to compete. Such an examination shall be referred to as the "Racing Soundness Exam."

(a) The examination shall include but not be limited to close inspection of the eyes, examination of the legs, recording of the temperature of the horse and observation of the horse at rest and while in motion.

(b) All such examinations shall be conducted in or near the stall to which the animal is assigned and shall be conducted by the Official Veterinarian or the Racing Veterinarian.

(c) The Official Veterinarian shall keep or cause to be kept a continuing health and racing soundness record of each horse so examined.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 337 (f), (g), and (h), Penal Code. Sections 19401 and 19440, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

§ 1846.5. Postmortem Examination.

(a) Every horse which suffers a fatal injury on the racetrack in training or in competition, or which dies or is euthanized within an area under the jurisdiction of the Board, shall undergo a postmortem examination at a diagnostic laboratory which is under contract with the Board to determine the injury or sickness which resulted in euthanasia or natural death.

(b) Test samples may be obtained from the carcass upon which the postmortem examination is to be conducted and sent to the diagnostic laboratory for testing for foreign substances or their metabolites, and natural substances at abnormal levels. When practical, test samples shall be procured prior to euthanasia.

(c) The costs associated with transportation to the diagnostic laboratory of any horse which has died under the provisions of subparagraph (a) shall be the responsibility of the racing association conducting the meeting where the death occurred or the training center or racetrack where death occurred when no meeting is in progress. The services of the official veterinarian and the laboratory testing of postmortem samples for standard necropsy and special equine necropsy examinations shall be made available by the Board without charge to the owner. The cost of any additional necropsy examination(s) requested by the owner or trainer are the responsibility of the requesting individual.

(d) Requests for each postmortem shall be filed with the official veterinarian by the owner's or trainer's veterinarian within one hour of the death and shall be submitted on a Necropsy Submission Form, CHRB-72, (Rev. 6/04), hereby incorporated by reference, and which is available at all official veterinarian offices. The trainer is co-responsible to supply all information to complete CHRB-72.

(e) If the official veterinarian is not available, the owner's or trainer's veterinarian must phone the diagnostic laboratory within one hour of the death and fax CHRB-72 to the laboratory as notification that the horse is due for necropsy. On the official veterinarian's next scheduled work day, the owner's or trainer's veterinarian shall give the original CHRB-72 to the official veterinarian.

(f) The racing association, racetrack or training center will notify the transporter within one hour of death to have the horse conveyed to the designated laboratory for necropsy.

(g) Upon completion of the postmortem examination the diagnostic laboratory shall file a written report with the Executive Director, the Equine Medical Director and the official veterinarian.

(h) Each owner and trainer accepts responsibility for the postmortem examination provided herein as a requisite for maintaining an occupational license.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19444(c), Business and Professions Code.

HISTORY

1. New section filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
2. Amendment filed 11-10-92; operative 12-10-92 (Register 92, No. 46).
3. Change without regulatory effect amending subsections (a) and (g) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
4. Amendment of subsections (a)-(f) filed 8-11-95; operative 9-10-95 (Register 95, No. 32).
5. Change without regulatory effect amending subsection (d) filed 7-6-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 28).
6. Change without regulatory effect amending subsections (d)-(e) filed 4-25-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 17).
7. Amendment filed 11-29-2004; operative 12-29-2004 (Register 2004, No. 49).

§ 1847. Blocking of Legs.

Blocking may be defined as the administration of any local anesthetic, or other agent, to desensitize a portion of a leg either locally by infiltration of the tissues, regionally by administration directly over a nerve, or by injection directly into a joint space, tendon sheath, or bursa for the pur-

pose of desensitization of a painful condition. These practices are prohibited after a horse is entered to race. The use of ice is not prohibited.

NOTE: Authority cited: Sections 19420, 19440 and 19562, Business and Professions Code. Reference: Sections 19420, 19440 and 19562, Business and Professions Code; Section 337h, Penal Code of California.

HISTORY

1. Amendment filed 1-24-91; operative 2-23-91 (Register 91, No. 7).

§ 1848. Bandages.

Only bandages approved by the official veterinarian shall be used on a horse during a race and all other leg coverings shall be removed before the horse leaves the saddling paddock to enter the race course.

NOTE: Authority cited: Section 19562, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).

§ 1849. Nerving.

No person shall bring onto the grounds of a racing association, or enter or cause to be entered in any race, or sell, offer for sale, or act as a bloodstock agent in the sale of, any horse which has been "nerved" or has had any nerve removed from the leg of such horse, except as provided in this article.

§ 1850. Posterior Digital Neurectomy.

Notwithstanding the prohibition against "nerving," a horse upon which a posterior digital neurectomy has been performed, commonly known as "heel nerving" is not ineligible to race, not subject to the prohibitions in this article pertaining to nerving, provided that the official veterinarian is satisfied that the loss of sensation to such horse due to the posterior digital neurectomy will not endanger the safety of any horse or rider, that the prior approval of the official veterinarian has been obtained if the horse is on the grounds of a racing association, that the racing secretary is notified of such nerving at the time such horse is admitted to the grounds of a racing association and its registration or eligibility certificate marked to indicate such nerving.

§ 1851. List of Nerved Horses.

The racing secretary shall maintain a list of nerved horses which are on the grounds and shall make such list available for inspection by other licensees participating in the meeting.

§ 1852. Reporting to Receiving Barn.

A horse shall not be qualified to start in a race unless his presence at the receiving barn at the time designated by the stewards is reported to the official veterinarian, and no trainer shall fail to cause a horse in his care to report to the receiving barn at the designated time.

§ 1853. Examination Required.

The official veterinarian shall examine each horse which is scheduled to race to determine its fitness to start. The horse identifier shall examine each horse to identify such horse from the Board's identification record and the photographs, record of pedigree, tattoo or brand number and such other points of identification as may be available. The horseshoe inspector shall inspect the horseshoes of each horse. No horse shall be eligible to start in a race, and shall be declared by the stewards, if it is found to be unfit to race, not properly identified, or improperly shod.

§ 1854. Exclusion from Receiving and Detention Barn.

The official veterinarian shall exclude from the receiving and detention barn all horses not participating in a race or being schooled to race and all persons who are not required for attendance on such horses. No person shall enter the stall in the receiving barn of a horse scheduled to race except with permission of the custodian of the barn or the official veterinarian. No person shall inspect any horse in the receiving barn which is not owned, trained or cared for by him, nor refuse to leave when ordered to do so by the custodian or the official veterinarian.

§ 1855. Medication Procedures and Related Instructions.

The Board may issue orders governing medication procedures and related instructions, which orders amplify the provision of this article.

§ 1856. Clean and Sterile Equipment Required.

Veterinarians shall use new, single-use disposable hypodermic needles for parenteral administrations. All other instruments used for injections or skin penetration, must be cleaned and sterilized. The official veterinarian shall provide a secure place for the disposal of needles, syringes, injectable medications and their containers, and veterinarians on the grounds shall not dispose of such materials on the grounds other than in such secure place.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Section 19580, Business and Professions Code.

HISTORY

1. Amendment of section heading, text, and new NOTE filed 8-16-93; operative 9-15-93 (Register 93, No. 34).

§ 1857. Equipment for Official Testing.

Associations shall provide the equipment, necessary supplies and services prescribed by the Board or the official veterinarian for the taking of or administration of urine, saliva or other tests.

§ 1858. Test Sample Required.

Blood and urine test samples shall be taken daily from the winner of ever race, from horses finishing second and third in any stakes race with a gross purse of \$75,000 or more, and from not less than six or more than nine other horses designated for testing by the stewards or the official veterinarian. Every horse within the inclosure or entered in any race is subject to testing and no owner, trainer or other person having the care of a horse shall refuse to submit it for testing when directed by the stewards or the official veterinarian.

NOTE: Authority cited: Sections 19440, 19562 and 19580, Business and Professions Code. Reference: Section 19580(b), Business and Professions Code; and Sections 337f, 337g and 337h, Penal Code.

HISTORY

1. Amendment filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Amendment filed 2-9-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 6).
3. Amendment filed 8-23-90; operative 9-22-90 (Register 90, No. 41).
4. Amendment of section and NOTE filed 1-9-96; operative 2-8-96 (Register 96, No. 2).
5. Amendment of section and NOTE filed 2-6-2002; operative 3-8-2002 (Register 2002, No. 6).

§ 1859. Taking, Testing and Reporting of Samples.

(a) Urine, blood or other official test samples shall be taken under the direction of the official veterinarian or their designee. All samples shall be taken in a detention area approved by the Board, unless the official veterinarian approves otherwise. The taking of any test sample shall be witnessed, confirmed or acknowledged by the trainer of the horse being tested or their agent or employee, and may be witnessed by the owner, trainer or other person designated by them. All official test samples shall be sent to the official laboratory approved and designated by the Board, in such manner as the Board may direct. All required samples shall be in the custody of the official veterinarian, their assistants or other persons approved by them, from the time they are taken until they are delivered to the custody of the official laboratory.

(b) If the official laboratory fails to detect in the official test samples, a prohibited drug substance, as defined in this article, the official sample shall be discarded immediately.

(c) The Executive Director and the Equine Medical Director shall immediately be notified by the official laboratory of each finding that an official test sample contains a prohibited drug substance, as defined in this article. The official laboratory shall further provide all information and data on which the finding is based to the Equine Medical Director, and shall transmit its official report of the finding to the Executive Director, within five (5) working days after the initial notification is made.

(d) The Board has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis.

(e) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no drug substance prohibited by this article has been administered, in violation of these rules, to the horse earning such purse money.

NOTE: Authority cited: Sections 19420, 19440, 19562 and 19577, Business and Professions Code. Reference: Sections 19401, 19440 and 19577, Business and Professions Code.

HISTORY

1. Amendment filed 12-15-80; effective thirtieth day thereafter (Register 80, No. 51).
2. Amendment adding subsection designations and new subsections (b) and (c) filed 8-23-90; operative 9-22-90 (Register 90, No. 41).
3. Change without regulatory effect amending subsection (c) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
4. Amendment of section heading and subsections (a)-(c) and (e) filed 10-25-94; operative 11-6-94 pursuant to Government Code Section 11346.2(d) (Register 94, No. 43).

§ 1859.5. Disqualification upon Positive Test Finding.

A finding by the stewards that an official test sample from a horse participating in any race contained a prohibited drug substance as defined in this article, which is determined to be in class levels 1-3 under Rule 1843.2 of this division, unless a split sample tested by the owner or trainer under Rule 1859.25 of this division fails to confirm the presence of the prohibited drug substance determined to be in class levels 1-3 shall require disqualification of the horse from the race in which it participated and forfeiture of any purse, award, prize or record for the race, and the horse shall be deemed unplaced in that race. Disqualification shall occur regardless of culpability for the condition of the horse.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401, 19440, 19577 and 19582.5, Business and Professions Code; and Sections 337f, 337g and 337h, Penal Code.

HISTORY

1. New section filed 4-21-83; effective thirtieth day thereafter (Register 83, No. 17).
2. Editorial correction inserting history note in appropriate section (Register 92, No. 19).
3. Amendment of section heading, section and NOTE filed 8-10-95; operative 9-9-95 (Register 95, No. 32).
4. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1859.25. Split Sample Testing.

(a) In addition to the blood and urine official test samples transmitted to the official laboratory for testing as provided in Rule 1859 of this Article, the Board shall maintain a portion of the official test sample for each horse tested if sufficient sample is available after the official test samples are taken. That portion shall be designated the split sample. The Board makes no guarantee as to the amount of sample which will be available for the split sample. All samples taken by representatives of the Board are under the jurisdiction of and shall remain the property of the Board at all times. The Board shall ensure the security and storage of the split sample.

(b) When the Executive Director or the Executive Director's designee is notified of a finding by the official laboratory that a test sample from a horse participating in any race contained a prohibited drug substance as defined in this Article, the Executive Director, after consulting with the Equine Medical Director or the Equine Medical Director's designee as to the presence of the prohibited drug substance shall notify a Supervising Investigator. The owner and the trainer shall be confidentially notified of the finding by a Supervising Investigator or his/her designee and the owner and trainer shall each have 72 hours from the date he or she is notified to request that the split sample of the official test sample that was found to contain the prohibited drug substance(s) be tested by an independent Board approved laboratory.

(c) If the owner or trainer wishes to have the split sample tested, he or she shall comply with the following procedures:

(1) The request shall be made on CHRB-56, (Rev. 5/97), Request to Release Evidence, which is hereby incorporated by reference. CHRB-56 shall be made available at all CHRB offices.

(2) The owner or trainer requesting to have the split sample tested shall be responsible for all charges and costs incurred in transporting and testing the split sample. By signing CHRB-56, the owner or trainer certifies he or she has made arrangements for payment to the designated Board-approved laboratory for laboratory testing services.

(3) Verification of payment for costs incurred in transporting and testing the split sample must be received by the CHRB within five (5) working days from the CHRB receipt of CHRB-56. If such verification of payment is not received, the split sample will not be released or shipped to the Board-approved laboratory designated by the owner or trainer to test the split sample and the owner and trainer will have relinquished his/her right to have the split sample tested. If a complaint issues, the only test results that will be considered will be the results from the Board's official laboratory.

(d) Upon approval by the Executive Director or the Executive Director's designated representative of a valid request on CHRB-56, CHRB-29 (Rev. 5/97), Authorization to Release Split Sample Urine Evidence, or CHRB-29A (Rev. 5/97), Authorization to Release Split Sample Blood Evidence, which are hereby incorporated by reference, shall be completed and the Board shall ensure that the split sample is sent to the designated laboratory for testing.

(1) If the findings by the independent Board-approved laboratory fail to confirm the findings of the prohibited drug substance as reported by the official laboratory, it shall be presumed that the prohibited drug substance was not present in the official sample.

(2) If the findings by the independent Board-approved laboratory confirm the findings of the prohibited drug substance as reported by the official laboratory, the Executive Director shall report these findings to the Board within 24 hours after receiving confirmation of the prohibited drug substance in the split sample.

(e) If the owner or trainer fails to request the testing of the split sample in accordance with the procedures specified in this rule, they shall be deemed to have waived their rights to have the split sample tested.

(f) Results of the official test sample and the split sample shall be, and shall remain, confidential and shall be provided only to the Executive Director or the Executive Director's designee, the Board, the Equine Medical Director or the Equine Medical Director's designee, and to the owner and trainer, unless or until the Board files an official complaint or accusation.

NOTE: Authority cited: Sections 19420, 19440 and 19577, Business and Professions Code. Reference: Sections 19420, 19440 and 19577, Business and Professions Code; Section 603, Evidence Code.

HISTORY

1. New section filed 4-15-91; operative 5-15-91 (Register 91, No. 19).
2. Change without regulatory effect amending subsections (c)(1) and (d) filed 5-1-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 19).
3. Change without regulatory effect amending subsections (b), (d) and (e) filed 6-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
4. Amendment filed 10-11-94; operative 11-10-94 (Register 94, No. 41).
5. Change without regulatory effect amending subsection (d) filed 10-22-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 43).
6. Change without regulatory effect amending section filed 6-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).
7. Change without regulatory effect amending section filed 11-17-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 47).

§ 1860. Adulteration of Sample.

No person shall tamper with, adulterate, add to, break the seal of, remove, or otherwise attempt to do so, any sample required to be taken by this article, except for the addition of preservatives or substances necessarily added by the official laboratory for presentation of the sample or in the process of analysis.

§ 1861. Vendors.

No vendor permitted on the grounds of an association shall sell or deliver any horse feed, feed supplement, tonic, veterinary preparation, medication, veterinary equipment or supplies, or any substance containing any prohibited drug, unless he shall have filed with the official veteri-

narian a list of such items he intends to sell or deliver and has received the approval of the official veterinarian. Any vendor permitted regular access to the stable area shall obtain a license from the Board. The official veterinarian may restrict the sale of, prohibit the sale or delivery of, or place conditions on the sale or delivery of any item subject to approval.

§ 1862. Dealers in Hay.

All dealers in hay or feed who are permitted access to the stable area are required to provide at the time of delivery of any hay or feed to a consignee in the stable area a bill specifying the weight and cost of such feed or hay. Any hay dealer who delivers hay or feed which does not weigh at least the amount specified on the bills provided therefore shall be denied access to all stable areas of associations in this State.

§ 1863. Pre-Race Testing.

The Board may require any horse entered to race to submit to any blood or other pre-race test, and no horse is eligible to start in a race until the owner or trainer complies with any required testing procedure.

§ 1864. Labelling of Medications.

No veterinarian or vendor shall dispense, sell or furnish any feed supplement, tonic, veterinary preparation, medication, or any substance containing a prohibited drug to any person within the inclosure unless there is a label specifying the name of the dispensing veterinarian, the name of the horse or the purpose for which the said preparation or medication is dispensed, and the name of the person to which dispensed, or is otherwise labelled as required by law. Any substance containing a prohibited drug shall be labelled, "Caution. Contains Prohibited Drug. Not to be used on race day."

§ 1865. Altering of Sex of Horse.

Any alteration to the sex of a horse from the sex as recorded on the Certificate of Foal Registration or the Eligibility Certificate or other official registration certificate of such horse shall be reported to the Racing Secretary and the Official Horse Identifier if such horse is registered to race at any race meeting.

(a) Should the gelding or castration of a race horse be performed on the premises of a licensed racing association, the trainer shall report the same within 72 hours.

(b) Should the gelding or castration of a race horse be performed off the premises of a licensed racing association and the horse has been previously registered to race at any race meeting in this State, the owner and/or trainer shall report the same at the time the horse is next registered to race.

(c) Any such report will include the name of the veterinarian performing the alteration and the date of the alteration, and shall be recorded on the official registration certificate and the Official Horse Identification record of such horse.

NOTE: Authority cited: Sections 19420, 19440, 19460 and 19562, Business and Professions Code.

HISTORY

1. New section filed 7-11-75; effective thirtieth day thereafter (Register 75, No. 28).

§ 1866. Veterinarian's List.

The Official Veterinarian shall maintain a Veterinarian's List of those horses determined to be unfit to compete in a race due to physical distress, unsoundness or infirmity. When a horse is placed on the Veterinarian's List, the trainer of such horse shall be notified within 72 hours. A horse placed on the Veterinarian's List shall be removed from the List only after having demonstrated to the satisfaction of the Official Veterinarian or the Racing Veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race. A horse may be required to perform satisfactorily in a work-out or qualifying race to demonstrate its physical fitness, and if so a blood and/or urine post-work test sample shall be taken from the horse and the provisions of this article shall apply to such official work-out in the same manner as to a scheduled race.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code.

HISTORY

1. New section filed 2-9-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 6).
2. Amendment filed 12-16-85; effective thirtieth day thereafter (Register 85, No. 51).

§ 1867. Prohibited Veterinary Practices.

For purposes of this division, prohibited veterinary practices means:

(a) the possession and/or use on the premises of a facility under the jurisdiction of the Board of any drug, substance or medication specified below for which a recognized analytical method has not been developed to detect and confirm its administration; or the use of which may endanger the health and welfare of the horse, or the safety of the rider or driver.

(1) Erythropoietin (EPO)

(2) Darbepoietin

(3) Snake venom

(4) Snail venom

(b) the possession and/or use on the premises of a facility under the jurisdiction of the Board of any drug, substance or medication that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States. The Board may grant an exception to this subsection if the person or persons seeking the exemption submits written documentation that demonstrates an FDA exemption has been obtained pursuant to Guide 1240.3025 of the FDA Center for Veterinary Medicine (CVM) Program Policy and Procedures Manual, which is hereby incorporated by reference. Guide 1240.3025 of the FDA CVM Program Policy and Procedures Manual may be obtained at the California Horse Racing Board's headquarters office.

NOTE: Authority cited: Sections 19440, 19562 and 19580, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

HISTORY

1. New section filed 10-15-2002; operative 11-14-2002 (Register 2002, No. 42).
2. New subsections (a)(3)-(4) and amendment of NOTE filed 9-16-2003; operative 10-16-2003 (Register 2003, No. 38).

Article 16. General Conduct

§ 1870. Conditions of Meeting Binding upon Licensees.

The Board, recognizing the necessity of an association to comply with the requirements of its license and to fulfill its obligation to the public and the State of California with the best possible uninterrupted services, in the comparatively short licensed period, herein provides that all associations, officials, horsemen, owners, trainers, jockeys, grooms, platers, association employees, and all licensees, who have accepted directly or indirectly, with reasonable advance notice, the conditions under which said association engages and plans to conduct such race meeting, shall be bound thereby.

§ 1871. Notice of Intention to Terminate.

Any association, officials, horsemen, owners, trainers, jockeys, grooms, platers, association employees, and all licensees, who so accept such conditions pursuant to Section 1870 shall, before they terminate or discontinue their employment, engagements or activities, give the Board and the association with whom they are engaged, at least 15 days notice in writing of their intentions to terminate or discontinue their employment, engagements or activities under such conditions. The Board may upon notice to all parties of interest, conduct a hearing with respect to any termination or discontinuance of employment.

§ 1872. Failure to Fulfill Jockey Agreement.

No jockey engaged for a certain race or for a specified time may fail or refuse to abide by his agreement unless excused by the stewards.

§ 1873. Furnishing Racing Selection.

No licensee, employee of the racing association, or employee of any concessionaire of the racing association shall furnish a handicap or selection or racing prediction to any racing prediction or selection service or

to any tipster sheet required to file with the Board pursuant to Section 19664 of the Business and Professions Code.

§ 1874. Disorderly Conduct.

No licensee shall be under the influence of any alcoholic beverage, and/or any illegal substance while performing their respective duties while within the inclosure of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board-approved training facility. Nor shall any licensee conduct themselves in a disorderly or boisterous manner at any time while within the inclosure of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board-approved training facility including but not limited to:

1. Fighting;
2. Threatening, abusive or aggressive behavior toward another person;
3. Any behavior that impedes others from performing their duties; and/or
4. Any other behavior that is detrimental to the public and racing.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19440 and 19460, Business and Professions Code.

HISTORY

1. Amendment of section heading, section and new NOTE filed 3-28-96; operative 4-27-96 (Register 96, No. 13).

§ 1875. Firearms.

No licensee, employee of the association or its concessionaires, shall possess a firearm while on the grounds of a facility within the purview or control of the Board unless such possession has been authorized by state or federal law, and unless the documentation of such authorization is on his or her person.

NOTE: Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19420, 19440 and 19460, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 1-6-94; operative 2-7-94 (Register 94, No. 1).

§ 1876. Financial Responsibility.

(a) No licensee shall willfully and deliberately fail or refuse to pay any moneys when due for any service, supplies or fees connected with his or her operations as a licensee, nor shall he or she falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due.

(b) Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due, or by a judgment from a civil court which has been issued within one year of the date of the complaint.

(c) The Board will not consider a financial complaint made by the complainant against the same accused within twenty-four months of the filing of the instant complaint.

(d) The Board will consider only those financial responsibility complaints which meet the following criteria:

(1) The complaint involves services, supplies or fees that are directly related to the licensee's California racetrack operations; and

(2) the debt or cause for action originated, or the civil court judgement was issued, in this State within one year of the filing of the complaint.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19440, 19460 and 19461, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).

§ 1877. Checks.

No licensee shall write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when such licensee knows or should reasonably know that the said check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not

contain sufficient funds for payment of the said check, or that the check is written on a closed account or a non-existent account. The fact that such a check is returned to the payee by the bank as refused is a ground for suspension pending satisfactory redemption of the returned check.

§ 1878. Workouts.

No trainer shall permit a horse in his charge to be taken onto the track for training or a workout except during hours designated by the association, and a trainer desiring to engage a horse in a workout shall prior to such workout identify the horse by name when requested to do so by the stewards or their authorized representative.

§ 1879. Interest in Earnings of Jockey.

No owner or trainer shall have an interest in the earnings of a jockey.

§ 1880. Gratuity to Starter or Assistant Starter.

No person shall give to any starter or assistant starter, nor shall any starter or assistant starter receive, money, or other compensation, gratuity or reward, in connection with the running of any race or races; except such compensation as salaries received from associations.

§ 1881. Exclusion of Persons from Race Course.

No person shall enter upon or remain upon the race course the race is to be run over from the time the horses enter the race course from the paddock until the race has been run. This section shall not apply to racing officials, licensees on duty which requires their presence on the course, and such persons who for good cause have been granted permission by the stewards or the Board.

§ 1883. Jockey Guilty of Foul.

HISTORY

1. Repealer filed 8-13-97; operative 9-12-97 (Register 97, No. 33).

§ 1884. Unsatisfactory Rides.

No jockey shall take his horse back without reasonable cause, or intentionally ride wide on the turns, or otherwise cause his mount to lose ground when there is not reasonable cause for such loss, or otherwise ride in a manner which is inconsistent with using the best efforts of the horse he is riding.

§ 1885. Rough Riding.

Rough riding is defined as a deliberate act in violation of any riding rule, or any willful or wanton act which is the proximate cause of any racing accident or injury to any jockey or his mount during the running of a race. The stewards shall report to the Board any rough riding.

§ 1886. Suspended Jockey May Exercise Horses.

During the term of a suspension, a jockey may exercise horses unless denied such privileges by the stewards or the Board.

§ 1887. Trainer to Insure Condition of Horse.

(a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in Rule 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off.

(b) Notwithstanding the above, if the Board or its agents fail to notify a trainer of a potential positive test within 21 calendar days from the date the sample was taken, the trainer shall not be deemed responsible under this section unless it is shown by the preponderance of the evidence that the trainer administered the drug or other prohibited substance defined in Rule 1843.1 of this division, caused the administration or had knowledge of the administration.

NOTE: Authority cited: Sections 19440, 19580 and 19581, Business and Professions Code. Reference: Sections 19440, 19577, 19580 and 19581, Business and Professions Code.

HISTORY

1. Amendment filed 7-9-92; operative 8-10-92 (Register 92, No. 28).
2. Amendment filed 10-25-94; operative 11-25-94 (Register 94, No. 43).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
4. Amendment of subsection (b) filed 8-8-2005; operative 9-7-2005 (Register 2005, No. 32).

§ 1888. Defense to Trainer Insurer Rule.

A trainer or other person charged with a violation of Rule 1887 of this division may defend, mitigate or appeal the charge if:

(a) He was not, before the commencement of any proceeding against him, informed of the charges being brought against him;

(b) He was not permitted counsel, representation or an advisor of his choosing in any hearing before the stewards concerning the charges;

(c) He shows, by a preponderance of evidence, that he made every reasonable effort to protect the horses in his care from tampering by unauthorized persons; and

(d) He was not permitted to introduce evidence in his own behalf before any finding or ruling was made against him. Nothing herein shall require that the stewards permit cross-examination of any witness appearing before them, or issue subpoenas for the attendance of witnesses.

NOTE: Authority cited: Sections 19440 and 19580, Business and Professions Code. Reference: Sections 19440 and 19580, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1889. Entry to Area Assigned to Trainer.

No person shall enter the stalls, shed row, tack rooms, feed sheds and the immediate adjacent area of the locations, unless the person has prior approval of the trainer to whom the locations are assigned by the association. This rule does not apply to racing officials, investigators of the Board, security officers, employees or agents of the association who are on duty, law enforcement or fire protection officers, and employees, agents or representatives of the trainer to whom the locations are assigned.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1890. Possession of Contraband.

No person other than a veterinarian licensed by the Board, shall have in his possession on the premises during any recognized meeting any drug which is a narcotic, stimulant, or depressant, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection. No person shall have in his possession on the premises during any recognized meeting any electrical stimulating or shocking device commonly known as a battery, or any mechanical stimulating device, or any other appliance which might affect the speed or actions of a horse. The stewards may permit the possession of drugs or appliances by a licensee for personal medical needs under such conditions as the stewards may impose.

§ 1891. Seizure of Contraband.

Investigators of the Board, track security officers, or officials shall confiscate any contraband named in Rule 1890 of this division, and any other drug or device prohibited by federal or state law, from any person within the inclosure who is not in legal possession of the drug or device.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420, 19440 and 19581, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1892. Bribes.

No person shall give, or offer or promise to give, or attempt to give or offer, any money, bribe or thing of value to any owner, trainer, jockey, agent, or any other person participating in the conduct of a race meeting in any capacity, with the intention, understanding or agreement that such owner, trainer, jockey, agent or other person shall not use his best efforts to win a race or so conduct himself in such race that any other participant in such race shall be assisted or enabled to win such race; nor shall any trainer, jockey, owner, agent or other person participating at any race meeting accept, offer to accept, or agree to accept any money, bribe or thing of value with the intention, understanding or agreement that he will not use his best efforts to win a race or to so conduct himself that any other horse or horses entered in such race shall thereby be assisted or enabled to win such race.

§ 1893. Best Effort Required.

HISTORY

1. Repealer filed 7-23-97; operative 8-22-97 (Register 97, No. 30).

§ 1894. Duties of Trainer.

Trainers are responsible for the condition of horses in their care and are presumed to know the rules. A trainer represents the owner relative to horses which he is training in the matter of entries, declarations, and the naming of jockeys or drivers, unless the owner notifies the stewards in writing to the contrary. A trainer is responsible for the timely attendance of his horse at the receiving barn and paddock and he shall attend his horse in the paddock and be present to supervise the saddling except when relieved of such duty by the stewards. No trainer shall delegate or sublet his duties as a trainer except as provided in this article, nor shall a trainer have any interest in the earnings, winnings, or bonuses of any other trainer.

§ 1895. Trainer's Duty to Insure Licensed Participation.

No trainer shall have in his custody within the inclosure of any race meeting any horse owned in whole or in part by any person who is not licensed as a Horse Owner by the Board unless such owner has filed an Application for License as a Horse Owner with the Board and the same is pending before the Board; nor shall any trainer have in his employ within the inclosure any groom, stable employee, stable foreman, agent, or other person required to be licensed, unless such person has a valid license. All changes of employee personnel shall be reported immediately to the Board.

§ 1896. Assistant or Substitute Trainer.

A trainer who has in his care a substantial number of horses, or who is actively participating in more than one race meeting at one time, may employ an assistant trainer, who shall be equally responsible with the employing trainer for the condition of the horses in their care. The name of the assistant trainer shall be shown on the official program along with that of the employing trainer. If any licensed trainer is prevented from performing his duties by illness or other good cause, and is absent from the track where he is participating, the stewards shall be immediately notified, and at the same time, a substitute trainer, acceptable to the stewards, shall be appointed and such substitute trainer's name shall be shown on the official program if possible. The stewards shall be advised immediately when the regular trainer resumes his duties. A substitute trainer shall be responsible with the regular trainer for the condition of the horses in his care. Assistant and substitute trainers must be licensed trainers.

§ 1897. Interference with Horses, Racing Participants or Racing Operations.

No person shall directly or indirectly interfere with the leading of horses from the stable area or to the receiving barn or to the paddock or in the parade by throwing any article at such horses, by waving hats or arms, or in any other manner frighten such horses; nor shall any person interfere with, block or impede any racing participant who is then performing his proper duties, nor fight, threaten to fight, or strike at any racing participant who is then performing his duties nor interfere with, block, impede or disrupt any racing operation in any manner.

§ 1898. Offering False Information for Wagering.

No licensee or employee of a racing association or its concessionaires shall knowingly or designedly by false representation attempt to, or persuade, procure, or cause another person to wager on a horse in a race to be run in this State or elsewhere; nor shall any licensee or employee of a racing association or its concessionaires ask or demand compensation as a reward for any racing selection or purported racing prediction provided to any person for wagering purposes. This shall not apply to the vending of newspapers or to other publications approved by the Board.

§ 1899. Offenses Requiring Suspension.

The stewards shall suspend and refer to the Board any licensee who is within the classes of persons prohibited from participating in pari-mutuel wagering and prohibited from being present within the racing inclosure.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19440, 19460 and 19461, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1900. Grounds for Suspension or Revocation.

Any provision of any rule which is a ground for denial of a license is also a ground for suspension or revocation of a license.

§ 1901. Conflicts of Interest.

The stewards shall determine matters involving conflicts of interest among competing participants.

§ 1902. Conduct Detrimental to Horse Racing.

No licensee shall engage in any conduct prohibited by this division nor shall any licensee engage in any conduct which by its nature is detrimental to the best interests of horse racing including, but not limited to:

- (a) knowing association with any known bookmaker, known tout, or known felon,

- (b) indictment or arrest for a crime involving moral turpitude or which is punishable by imprisonment in the state or federal prison, when such indictment or arrest is the subject of notorious or widespread publicity in the news media, and when there is probable cause to believe the licensee committed the offenses charged,

- (c) solicitation of or aiding and abetting any other person to participate in any act or conduct prohibited by this division.

NOTE: Authority cited: Sections 19440, 19460, Business and Professions Code. Reference: Sections 19440, 19460, and 19572, Business and Professions Code.

HISTORY

1. Amendment of section and adoption of NOTE filed 2-22-93; operative 3-24-93 (Register 93, No. 9).

§ 1902.5. Animal Welfare.

No person under the jurisdiction of the Board shall alone, or in concert with another person, permit or cause an animal under his control or care to suffer any form of cruelty, mistreatment, neglect or abuse. Nor shall such person abandon; injure; maim; kill; administer a noxious or harmful substance to; or deprive an animal of necessary care, sustenance, shelter or veterinary care.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19460 and 19580, Business and Professions Code.

HISTORY

1. New section filed 1-9-2006; operative 2-8-2006 (Register 2006, No. 2).

§ 1903. Illegal or Improper Use of Communications Equipment or Devices.

No person shall use any telephonic, radio, semaphore or other signaling or communication equipment or device to transmit wagering information and/or the results of a race within any racing association, fair or simulcast wagering facility inclosure unless its use has been authorized by the Board. Any communication equipment or device used contrary to this rule is subject to confiscation by an investigator of the Board.

This rule does not prohibit the personal use of the devices for purposes other than the transmission of racing information by any person within

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the inclosure when permitted by the racing association, fair or simulcast wagering facility.

NOTE: Authority cited: Sections 19440, 19590 and 19595, Business and Professions Code. Reference: Sections 19440, 19590 and 19595, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 9-19-94; operative 10-19-94 (Register 94, No. 38).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1904. Communicating Results of Races.

NOTE: Authority: Sections 19440, 19590 and 19595, Business and Professions Code. Reference: Sections 19440, 19590 and 19595, Business and Professions Code.

HISTORY

1. Repealer filed 3-16-92; operative 4-15-92 (Register 92, No. 13).

Article 17. Fire Prevention and Security

§ 1920. Security Control.

Every association conducting a race meeting shall maintain security controls over its premises and such security controls are subject to the approval of the Board.

§ 1921. Stable Records Required.

Unless granted exemption by the Board, every association shall maintain stable area records which shall show the entry and departure of non-licensed visitors to the stable area. Such records will specify the name of the visitor and the authorizing licensee for such visit, and will be made available to the Board, its investigators, or the stewards upon demand. Such records will be retained for at least six months.

§ 1922. Identification Required.

Unless the Board permits otherwise, a license, visitor's pass, or other identification issued by the Board or the association shall be visibly displayed by any person within any restricted area. Persons in the stable area of fairs are exempt from this requirement when the stable area of the fair is a part of the general exhibition area for livestock and is exempted by the Board. No person shall use the license or credential issued to another, nor shall any person give or loan his license or credential to any other person.

NOTE: Authority cited: Sections 19440, 19460 and 19510, Business and Professions Code. Reference: Sections 19440, 19460 and 19510, Business and Professions Code.

HISTORY

1. Amendment and new NOTE filed 4-24-92; operative 5-25-92 (Register 92, No. 18).

§ 1923. Association Credentials.

The racing association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to insure that all participants at its meeting are licensed as required by this Division; provided, however, that no such system or methods may exclude any investigator or employee of the Board or any peace officer then on duty, nor shall any person be excluded on the basis of sex, color, creed, or national origin or ancestry.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1924. Association to Prevent Unauthorized Access to Restricted Areas.

Unless granted exemption by the Board, every association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.

§ 1925. Exemption for Tour Groups and Fairs.

Rules 1921, 1922 and 1924 of this division do not apply to groups of persons who are under the supervision of an authorized guide or official to tour a racing facility, and do not apply to the stable area of any fair when the fair stable area is a part of the general exhibition area for livestock and is exempted by the Board.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1926. Entrance to Jockey Room Prohibited.

Except with permission of the stewards or the Board, no person shall be permitted entrance into the jockey room or driver's room from one hour before post time for the first race until after the last race other than jockeys, drivers, their attendants and valets, racing officials and security officers on duty, and association employees performing required duties.

§ 1927. Fire Prevention.

Associations shall make adequate provision for fire prevention, protection against fire, and fire suppression within the inclosure. Before any license is granted to any association, each applicant therefor must inform the Board, in detail, of the fire prevention facilities at or available to its inclosure, and particularly its stable area.

When a licensee is unable to stable all the horses participating at its meeting on its grounds, such licensee must advise the Board of the facilities for fire prevention at the additional location where such excess number of horses will be stabled.

A written clearance from the fire authority having jurisdiction, stating that an inspection has been made of the inclosure and any additional location where any excess number of horses will be stalled and that the facilities conform with a reasonable standard of fire safety, shall be filed with the Board prior to the commencement of a race meeting. Such inspection shall have been made within 45 days prior to the commencement of the meeting.

For the purposes of this regulation, a reasonable standard of fire safety shall require that each building, barn or structure which is used by an association for the stabling of horses or human habitation, be equipped with an automatic sprinkler system and an automatic fire alarm system, and that the stable area grounds, including any additional location where any excess number of horses will be stabled, be patrolled by a watchman during the hours of darkness. The type and installation of automatic sprinkler and automatic fire alarm systems shall be of such quality as to afford the protection required by this regulation as determined and approved by the fire authority having jurisdiction. Portable structures or sheds fully open on at least one side, with the approval of the fire authority having jurisdiction, and trailer coaches, campers and unroofed stalls are exempted from the automatic sprinkler and fire alarm requirement, so long as they are located within the effective operating distance of exterior wet standpipe fire hose streams and within 150 feet of a manual fire alarm box.

Any association whose stable area, including any additional location where any excess number of horses will be stabled, does not conform with a reasonable standard of fire safety as defined in this regulation may petition the Board for an extension of time within which to comply with this regulation or exemption from such requirements. In reviewing any such petition, the Board shall take into consideration any written recommendations from the fire authority having jurisdiction as well as all other matters pertinent to the petition, including the fact that the Board recognizes that the physical structure of each racing inclosure is unique and, as such, inherent with its own particular problems. Any extension of time or exemption granted by the Board shall be in writing and may be on such conditions as the Board may deem appropriate.

§ 1928. Fire Regulations.

(a) Every association shall post in its stable and backstretch worker housing areas the fire regulations applicable on its grounds. The association shall also post:

(1) its emergency evacuation plan, which shall state the nearest exit in case of fire or other emergency,

(2) the location of the nearest fire alarm box, and

(3) the telephone number of the fire department or other pertinent instructions as to the method for reporting a fire in the area.

(b) The notices shall be in English and Spanish, and posted no more than 100 feet apart or as approved by the local fire authority.

(c) No person shall violate the posted fire regulations.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19481(a) and 19481.5(b)(1), Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-7-2002 order transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).

§ 1929. Examination of Personal Effects.

The Board, its investigators, or racing officials may enter the stables, rooms, or other places within the premises of a recognized meeting to inspect and examine the personal effects and property of any licensee or other person in or about or permitted access to any restricted area; and each licensee in accepting his license, and each person entering such restricted area does thereby consent thereto.

§ 1930. Obedience to Security Officers and Public Safety Officers.

No licensee shall willfully ignore or refuse to obey any lawful order issued by the stewards, the Board, or any security officer of the association, or any public safety officer of any police, fire or law enforcement agency, when such order is issued or given in the performance of duty.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19420 and 19440, Business and Professions Code; and Sections 337.9 and 830.3(d), Penal Code of California.

HISTORY

1. Amendment of section and new NOTE filed 1-11-94; operative 2-10-94 (Register 94, No. 2).

Article 18. Pari-mutuel Wagering

§ 1950. Pari-mutuel Wagering.

All forms of wagering, including the daily double, quinella, special quinella or exacta, and similar or other pool systems may only be used with permission of the Board and under the provisions of the Horse Racing Law.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19420, 19440 and 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending article heading, section heading and section and adding new NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1950.1. Rebates on Wagers.

No racing association or simulcast organization shall enter into an agreement with any off-track betting facility unless the agreement contains a provision that prohibits programs where the off-track betting facility accepts less than the face amount of wagers from patrons, or agrees to refund or rebate any consideration based on the face amount of any wagers to patrons.

NOTE: Authority: Sections 19420, 19440 and 19602, Business and Professions Code. Reference: Sections 19420, 19440 and 19602, Business and Professions Code.

HISTORY

1. New section filed 5-21-96; operative 6-20-96 (Register 96, No. 21).

§ 1951. Pari-mutuel Tickets.

A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the licensee association and of the obligation of the association to pay to the holder thereof the portion of the distributable

amount of the pari-mutuel pool represented by the valid pari-mutuel ticket. The association shall cash all valid unmutated winning tickets when the tickets are presented for payment during the course of the meeting where sold, and until May 15 of the year following the year in which the meeting ends.

(a) To be deemed valid, a pari-mutuel ticket shall have been issued by a pari-mutuel ticket machine operated by the association, recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

(1) The name of the association operating the meeting.

(2) The date of the wagering transaction.

(3) A unique identifying number or code word.

(4) The race number for which the pool is conducted.

(5) The type(s) of wagers represented.

(6) The number(s) representing the wagering interests for which the wager is recorded.

(7) The amount(s) of the contributions to the pari-mutuel pool for which the ticket is evidence.

(b) Pari-mutuel tickets recorded or reported as previously paid, canceled, or non-existent shall not be deemed valid by the association.

(c) The association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid or which is presented for payment by a person believed to be other than the person who contributed to the pari-mutuel pool as represented by the pari-mutuel ticket.

NOTE: Authority cited: Section 19590, Business and Professions Code. Reference: Sections 19592 and 19598, Business and Professions Code.

HISTORY

1. Repealer and new section filed 5-12-82; effective thirtieth day thereafter (Register 82, No. 20).

2. Amendment of first paragraph, subsection (a)(5) and subsection (c) filed 1-27-93; operative 2-26-93 (Register 93, No. 5).

3. Amendment of first paragraph filed 11-14-95; operative 12-14-95 (Register 95, No. 46).

4. Change without regulatory effect amending section heading and section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1951.1. Totalizator Systems.

For the purposes of compatibility for totalizator systems operating in California, totalizator companies shall provide:

(a) Systems that electronically transfer wagering information to all other totalizator systems merging parimutuel pools with California racing associations, both intrastate and interstate.

(b) Systems that include a daily electronic download of parimutuel data directly to the horse racing data base, as designated by the Board.

(c) A daily history of individual totalizator transactions in a computer readable medium for each race meeting for a minimum of one year after the conclusion of the meet.

NOTE: Authority cited: Sections 19590, 19592.5 and 19642, Business and Professions Code. Reference: Sections 19592.5 and 19593, Business and Professions Code.

HISTORY

1. New section filed 6-22-95; operative 7-22-95 (Register 95, No. 25).

§ 1952. Claim for Payment from Parimutuel Pool.

A written, verified claim for payment from a parimutuel pool shall be accepted by the licensee association in any case where the association has withheld payment or has refused to cash a parimutuel ticket presented for payment. The claim shall be made on such form as approved by the Board and the claimant shall make such claim under penalty of perjury. The original of such claim shall be promptly forwarded to the Board.

(a) In the case of a claim made for payment of a mutilated parimutuel ticket which does not contain the total imprinted elements required in Section 1951, the association shall make a recommendation to accompany the claim forwarded to the Board as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

(b) In the case of a claim made for payment of a parimutuel ticket, the Board shall adjudicate the claim and may order payment thereon from the

parimutuel pool or by the association or may deny the claim or may make such other Order as it may deem proper.

NOTE: Authority cited: Section 19590, Business and Professions Code. Reference: Sections 19592 and 19598, Business and Professions Code.

HISTORY

1. Repealer and new section filed 5-12-82; effective thirtieth day thereafter (Register 82, No. 20).

§ 1953. Lost or Destroyed Tickets.

No claim for a lost or destroyed parimutuel ticket shall be accepted by the association or the Board.

§ 1954. Parimutuel Pools.

The association shall provide, win, place and show pools in any race in which there are five or more separate wagering interests which are obligated to start. The association shall provide win and place pools where there are four separate wagering interests which are obligated to start. The association shall provide a win pool only in any race where less than four separate wagering interests are obligated to start. Upon a showing of good cause, the Board may waive the requirement for a place or show pool in any race.

§ 1954.1. Parlay Wagering on Win, Place or Show.

(a) The parlay is not a separate mutuel pool, it is a series of wagers (consisting of legs) combining wagering entries in Win, Place or Show pools. The initial amount wagered constitutes the wager on the first leg, and if successful, the payout from the first leg constitutes the wager on the second leg, etc.

(b) A parlay wager is limited to Win, Place or Show which have a corresponding pool conducted on the race selected. The wager must combine at least two races but not more than six races. The races in a parlay must be in chronological order but do not need to be consecutive races or combine the same type pool.

(c) A parlay wager may only be on one pool and one wagering interest per leg and can not combine wagers on races on other days.

(d) Payouts included as wagers in subsequent races and the final payout to the parlay wagerer shall be broken to the nearest dime. Parlay breakage shall be reported separately and added to regular breakage at the end of the day for the purpose of taxation and distribution.

(e) Parlay payouts will be included as wagers in subsequent pools by the track operator so the amount of such wagers, including their impact on the wagering odds, will be displayed. Wager totals in such pools shall be displayed in truncated fashion, to the lowest dollar.

(f) Parlay wagers may be cancelled by the ticket holder, in accordance with track policy, only before the start of the first parlay leg in which a parlay selection starts. Parlay wagers not cancelled must be completed or terminated by operation of these rules in order to be entitled to a payout.

(g) If a race, pool or wagering entry in a parlay is scratched, which includes an entry being declared a non-starter for wagering purposes, or a race or pool is cancelled, the parlay shall consist of the remaining legs. The parlay terminates if there are no remaining legs.

(h) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of the coupled entry or field starts for parimutuel purposes in accordance with Section 1974 of this Article.

NOTE: Authority cited: Section 19590, Business and Professions Code. Reference: Sections 19594, 19597 and 19598, Business and Professions Code.

HISTORY

1. New section filed 2-8-95; operative 2-8-95 (Register 95, No. 6).
2. Change without regulatory effect amending subsections (a), (d), (e) and (f) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1955. Distribution of Pools.

After the results of the race have been declared official by the Stewards, the parimutuel pools are subject to distribution to the holders of parimutuel tickets entitled to share in the respective pools in accordance with the provisions of the Horse Racing Law and this Division. When

only two horses finish in a race, the show pool, if any, shall be distributed the same as in a place pool. When only one horse finishes in a race the place pool and show pool, if any, shall be distributed the same as in a win pool. In any race in which no horse finishes, or which is declared as no contest by the Stewards, all money wagered on the race shall be refunded to the respective ticket holders.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1956. Race Declared Official.

The decision of the Stewards regarding the order of finish is final at the time the Stewards order the official sign displayed on the totalizator board. No rulings of the Stewards or the Board regarding the order of finish or any award of purse money made after the result of the race has been declared official shall affect the parimutuel payout or the distribution of any parimutuel pool.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1957. Daily Double.

(a) The Daily Double is a separate parimutuel pool established on two (2) races. The pool consists of amounts wagered on the selection of the winning horse of both races. It is not a parlay and has no connection with or relation to other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Daily Double ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Daily Double provisions and rules contained in this Article.

(c) The association shall distribute the net pool to holders of valid tickets that correctly selected the winner of both races. If no ticket selected the winner of both races, the net pool shall be distributed as a place pool among tickets that included the winner of the first race and tickets that included the winner of the second race.

(d) If no ticket included the winner of the first race the net pool shall be distributed equally among tickets that included the winner of the second race; and, if no ticket included the winner of the second race the net pool shall be distributed equally among tickets that included the winner of the first race.

(e) If no ticket included the winner of either race, the net pool shall be distributed equally among tickets selecting the second place finishers of both races.

(f) The association shall refund the entire pool if no ticket requires a payout or if the first race is cancelled.

(g) If the second race is cancelled after the first race has been completed, the net pool shall be distributed as a single price pool among tickets selecting the winner of the first race.

(h) Before the first race is run, any money wagered on a horse in either race that is scratched, excused by the Stewards or prevented from racing shall be deducted from the pool and refunded.

(i) If any horse is scratched, excused by the Stewards or prevented from racing because of the failure of the stall doors or or starting gate to open in the second race, after the first race has been completed, all tickets including such horse(s) shall be deducted from the pool, and the pool(s), thus formed shall be distributed as a straight pool(s) among tickets combining the winner of the first race with such horse(s).

(j) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of such entry starts for parimutuel purposes in accordance with Section 1974.

(k) If a dead heat occurs in either race the net pool is figured as a place pool. Example: Number eight (8) and five (5) dead heat in the first race,

and number three (3) wins the second race, the pool would be divided and apportioned to tickets bearing eight (8) and (3), and five (5) and three (3).

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19590, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 5-30-96; operative 6-29-96 (Register 96, No. 22).

§ 1958. Quinella.

(a) The Quinella is not a parlay and has no connection with or relation to the win, place and show pools shown on the totalizator board. All tickets on the Quinella will be calculated in a separate pool.

(b) All Quinella tickets will be for the win and place combination only. When purchasing a Quinella ticket two horses are selected, which must finish 1-2, or 2-1. For example, if numbers 3 and 6 are selected they must come in 3, first and 6, second, or 6, first and 3, second.

(c) Entries or field horses in a race comprising the Quinella shall race as single wagering interests for the purposes of mutuel pool calculations and payouts to the public. If, in the event that any part of the entry or the field is a starter, there shall be no refund to persons wagering on such entry or field. In the event any part of an entry or the field finishes first, the order of finish of all other horses making up such entry or field will be disregarded in determining which horse finished second for the purpose of this rule.

(d) Should any horse or horses entered in a Quinella race be scratched or excused by the Stewards after wagering has commenced or should any horse or horses be prevented from racing because of the failure to stall doors of the starting gate to open, all tickets including such horse or horses shall be deducted from the Quinella Pool and money refunded to the purchasers of tickets on the horse or horses so excused or prevented from racing.

(e) Should there be no tickets sold on the winning combination in a Quinella race, any and all Quinella tickets bearing the number of the individual win horse and any and all Quinella tickets bearing the number of the individual place horse shall be deemed winning tickets and the payout shall be calculated as a place pool.

(f) Should there be no tickets sold on the winning combination in a Quinella race and should there be no Quinella tickets sold bearing the number of the individual win horse, any and all Quinella tickets bearing the number of the individual place horse shall be deemed winning tickets and the payout shall be calculated as a win pool.

(g) Should there be no tickets on the winning combination in a Quinella race, and should there be no Quinella tickets sold bearing the number of the individual place horse, any and all Quinella tickets bearing the number of the individual win horse shall be deemed winning tickets and the payout shall be calculated as a win pool.

(h) Should there be no tickets on the winning combination in a Quinella race, and should there be no Quinella tickets sold bearing the number

of the individual win horse, and should there be no Quinella tickets sold bearing the number of the individual place horse, the Quinella shall be deemed "No Contest" and all money in the Quinella shall be promptly refunded.

(i) Should, after an official start is effected, only one horse finish the Quinella race, the total money is figured as a win pool, with those who have picked that one horse in the race participating in the pool.

(j) Should a two horse dead-heat for win result in a Quinella race, the two horses involved in the dead-heat shall be winners of the Quinella race.

(k) Should a multiple dead-heat for win result in a Quinella race, all horses involved in the dead-heat shall be winners of the Quinella race and payouts figured accordingly.

Example: Should numbers 1, 3 and 5 dead-heat for win, the winning Quinella combinations would be 1-3, 1-5, 3-1, 3-5, 5-1 and 5-3. The net pool after deducting the amounts wagered on the winning combinations will be equally distributed in payout calculations on the winning combinations.

(l) Should a two-horse dead-heat for place result in a Quinella race, the total pool is calculated as a place pool.

(m) Should a multiple dead-heat for place result in a Quinella race, all combinations coupling the winning horse with the individual place horses shall be winners of the Quinella race and payouts calculated accordingly.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending subsections (a), (e), (f), (g), (k) and (m) and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1959. Special Quinella (Exacta).

(a) The Special Quinella is not a parlay and has no connection with or relation to the win, place and show pools shown on the totalizator board. All tickets on the Special Quinella will be calculated in a separate pool.

(b) A Special Quinella race shall be given a distinctive name to be selected by the association conducting such race, such as "Perfecta" or "Exacta," subject to the approval of the Board.

(c) All Special Quinella tickets will be for the win and place combination only. Each person purchasing a Special Quinella ticket shall designate the exact order in which the first two horses will finish in a Special Quinella race. For example, if number 3 is selected to finish first and number 6 is selected to finish second, they must come in number 3, first and number 6 second in order to win.

(d) Entries or field horses in a race comprising the Special Quinella shall race as single wagering interests for the purposes of mutuel pool calculations and payouts to the public. If, in the event that any part of the entry or the field is a starter, there shall be no refund to persons wagering

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on such entry or field. In the event any part of an entry or the field finishes first, the order of finish of all other horses making up such entry or field will be disregarded in determining which horse finished second for the purpose of this rule.

(e) Should any horse or horses entered in a Special Quinella race be scratched or excused by the Stewards after wagering has commenced or should any horse or horses be prevented from racing because of the failure of the stall doors of the starting gate to open all tickets including such horse or horses shall be deducted from the Special Quinella Pool and money refunded to the purchasers of tickets on the horse or horses so excused or prevented from racing.

(f) In the event that no ticket is sold on the winning combination of a Special Quinella Pool, the net pool shall be distributed equally among holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

(g) In the event of a dead-heat between two horses for first place, the net pool shall be calculated and distributed as a place pool to holders of the winning combinations.

(h) In the event of a dead-heat between two or more horses for place all tickets designating the proper first horse to win which are coupled with any of the place horses involved in a dead-heat shall be the winners of the Special Quinella race and payouts calculated according to their respective interest in the net pool.

(i) In the event of a dead-heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combinations. If no tickets combine the winning horse with either of the place horses in the dead-heat the Special Quinella Pool shall be calculated and distributed to holders of tickets designating the winning horse or either of the place horses according to their respective interest in the net pool.

(j) In the event of a dead-heat among three or more horses for first place, the net pool shall be calculated and distributed to holders of tickets designating any two of the horses participating in the dead-heat according to their respective interest in the net pool.

(k) In the event that no ticket is sold that would require distribution to any winner as above defined the Special Quinella shall be deemed "No Contest" and all money in the Special Quinella shall be promptly refunded.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending subsections (a) and (h) and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1959.5. Special Sweepstakes.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19594, Business and Professions Code.

HISTORY

1. New section filed 4-29-80 as an emergency; effective upon filing (Register 80, No. 18). A Certificate of Compliance must be transmitted to OAH within 120 days or emergency language will be repealed on 8-28-80.
2. Certificate of Compliance filed 8-22-80 (Register 80, No. 34).
3. Editorial correction of subsections (h) and (o) (Register 80, No. 40).
4. Amendment filed 10-31-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 44).
5. Amendment of subsection (f) filed 5-16-88; operative 6-15-88 (Register 88, No. 21).
6. Change without regulatory effect amending subsections (a), (b), (f)(1), (f)(2) and (h) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
7. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1959.6. Limited Sweepstakes.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19590, 19593 and 19594, Business and Professions Code.

HISTORY

1. New section filed 3-30-83 as an emergency; effective upon filing (Register 83, No. 15).
2. Order of Repeal of 3-30-83 emergency order filed 4-8-83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 15).
3. New section filed 6-23-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 26).
4. Amendment filed 12-2-85; effective thirtieth day thereafter (Register 85, No. 49).
5. Change without regulatory effect amending subsections (b) and (g) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
6. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1959.7. Pick Seven.

NOTE: Authority: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19590, 19593 and 19594, Business and Professions Code.

HISTORY

1. New section filed 10-10-91; operative 10-10-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 2).
2. Change without regulatory effect amending subsection (g) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
3. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1959.8. Pick 6 One Pool.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19440, 19590 and 19593, Business and Professions Code.

HISTORY

1. New section filed 11-20-97; operative 12-20-97 (Register 97, No. 47).
2. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1960. Payout on Minus Pools.

The association must pay to the holder of any ticket or tickets entitling him to participate in the distribution of a parimutuel pool the amount wagered by such holder plus a minimum of 5% thereof. This requirement is unaffected by the existence of a parimutuel pool which does not contain sufficient money to distribute said 5% to all persons holding such tickets.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section heading and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1961. Errors in Posted Payout.

If an error is discovered in the payout amounts posted on the public board it shall be corrected promptly and an announcement thereof shall be made over the public address system. After the error is discovered the correct amounts shall be used in the payout.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section heading and section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1962. Payment for Errors.

If an error occurs in the payment amounts for parimutuel tickets which are cashed or entitled to be cashed and as a result of such error the parimutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

(a) In the event the error results in an over-payment to ticket holders the association shall be responsible for such payment.

(b) In the event the error results in an under-payment to ticket holders:

(1) The association shall accept timely claims for such under-payment, shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant if his claim is rejected as invalid.

(2) Any person whose claim is rejected by the association may, within 15 days from the date he received the notice of rejection, request the Board to determine the validity of the claim. The failure to file such request with the Board within the said time shall constitute a waiver of the claim.

(3) A hearing shall be held on each such rejected claim timely filed with the Board. The Board shall give notice of such hearing to the claimant and the association. The Board may determine a claim to be valid, in whole or in part, and thereafter order the association to pay to the claimant the amount of the claim determined to be valid, or may deny the claim in whole or in part. Any such determination shall be final and binding on all parties.

(4) If no valid claims are presented for the amount of the under-payment or any part thereof, the amount of the under-payment shall be paid to the Board.

(c) Any claim not filed with the association within 30 days inclusive of the date on which the under-payment was discovered shall be deemed waived and the association shall have no further liability therefor.

§ 1963. Emergency in Parimutuel Department.

Should any emergency arise in connection with the operation of the parimutuel department of the association, not covered by this Division, and an immediate decision is necessary, the manager of the parimutuel department shall make the decision and shall make an explanation in detail in a written report to the Board.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1964. Cooperation of Parimutuel Department.

The parimutuel manager and the representatives of any totalisator company or service providing parimutuel equipment or service at any race meeting, shall cooperate fully in any investigation of the Board or in any proceedings before the Board relating to any parimutuel operation.

§ 1965. Acceptance of Wagers from Outside Inclosure.

No association shall accept mailed or telephoned wagers nor knowingly accept any wager made by or for a person who is prohibited from participating in parimutuel wagering.

§ 1966. Probable Odds or Morning Line.

The association shall calculate and print on the official program the probable win odds for each wagering interest in each race. Probable odds are subject to the approval of the stewards.

§ 1967. Closing of Wagering in a Race.

Coincident with the start of a race, the stewards shall lock the parimutuel machines and shall close the wagering in the race, after which time no parimutuel tickets shall be sold for the race. The association shall maintain in good order an electrical or other system approved by the Board for locking the parimutuel machines.

HISTORY

1. Amendment filed 4-11-78 as procedural and organizational; designated effective thirtieth day thereafter (Register 78, No. 15).

§ 1968. Wagering by Minors Prohibited.

No minor shall purchase or cash any parimutuel ticket. No employee of the association shall knowingly sell to or cash for a minor any parimutuel ticket.

§ 1969. Wagering Prohibited.

No racing official or assistant racing official, pari-mutuel employee, totalizator employee, simulcast facility supervisor or assistant simulcast facility supervisor, official camera operator, assistant starter, receiving or detention barn staff member, or employee of the Board, while on duty at a race meeting or simulcast wagering facility, shall wager on the result of a race.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

HISTORY

1. Amendment filed 10-4-90; operative 11-3-90 (Register 90, No. 45).
2. Editorial correction of printing error (Register 92, No. 24).
3. Amendment filed 4-6-94; operative 5-6-94 (Register 94, No. 14).
4. Amendment of section and NOTE filed 12-10-2001; operative 1-9-2002 (Register 2001, No. 50).

§ 1970. Wagering on Competing Horse.

No owner, authorized agent or trainer having a horse entered in a race shall wager on, or include in any wager, any other horse competing in such races to finish first regardless of whether such wager is "exotic" or "conventional." No employee or representative of an owner, authorized agent or trainer having a horse entered in a race shall wager on, or include in any wager, any other horse competing in such races to finish first regardless of whether such wager is "exotic" or "conventional."

(a) When an owner, authorized agent, trainer, jockey, or driver submits a winning parimutuel ticket for cash redemption it shall be prima facie evidence that the person submitting the ticket made the wager shown on the winning ticket.

NOTE: Authority cited: Section 19590, Business and Professions Code. Reference: Sections 19590 and 19593, Business and Professions Code.

HISTORY

1. Amendment filed 1-27-92; operative 2-26-92 (Register 92, No. 12).
2. Amendment of first paragraph and new subsection (a) filed 11-21-94; operative 12-21-94 (Register 94, No. 47).

§ 1971. Wagering by Jockey or Driver.

No Jockeys or drivers shall make any wagers, or have any wagers made in their behalf, in any race in which they participate, except through the owners or trainers on the horses which they ride or drive. Any owners or trainers wagering for such jockeys or drivers shall maintain records of all such wagers and all other presents or other gratuities given any jockeys or drivers. Such records will be furnished to the stewards or the Board or its investigators upon demand.

NOTE: Authority cited: Section 19590, Business and Professions Code. Reference: Sections 19590 and 19593, Business and Professions Code.

HISTORY

1. Amendment of section heading and text and new NOTE filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Change without regulatory effect amending section filed 11-26-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).

§ 1972. Dead Heat.

When a race results in a dead heat, the dead heat shall not be run off. When two horses run a dead heat for first place, both win and place pools shall be distributed as place pools; when two horses run a dead heat for second, one-half the place pool shall be distributed among the holders of place tickets on the winning horse, and one-quarter of the place pool shall be distributed among the holders of place tickets on each of the two horses finishing second. In each such case, the show pool shall be distributed among the holders of tickets for show on the first three horses which finish. In the event of a dead heat for show, one-third of the show pool will be distributed among holders of tickets on the horses which dead heat for third.

§ 1973. Purses for Dead Heats.

Purses, prizes or awards for a race in which a dead heat has occurred shall be divided equitably by determination of the stewards.

§ 1974. Wagering Interest.

A wagering interest may be any one horse in a race, or may be two or more horses coupled as a single wagering interest as an "Entry" or the "Field." A declaration or withdrawal of one horse from a wagering interest which consists of more than one horse shall have no effect on any wagers made on such wagering interest.

§ 1975. Evidence of Pool Distribution.

In the event of loss by the association, its agent or employees, of any evidence of proper distribution of parimutuel pools, including, but not limited to, parimutuel tickets which have been cashed, outs ledgers, parimutuel machine recording registers, or cashier out-slips, the association shall file with the Board within 72 hours of the discovery of the loss a report and supporting affidavits. The Board may approve the report of loss without hearing or may hear the matter in its discretion.

§ 1976. Unlimited Sweepstakes.

(a) The Unlimited Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.

(b) An Unlimited Sweepstakes parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Unlimited Sweepstakes provisions and rules contained in Article 18.

(c) An Unlimited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to approval of the Board.

(d) The Unlimited Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of nine races designated by the association with the approval of the Board. Each person purchasing an Unlimited Sweepstakes ticket shall designate the winning horse in each of the nine races comprising the Unlimited Sweepstakes.

(e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Unlimited Sweepstakes shall race as a single wagering interest for the purpose of the Unlimited Sweepstakes parimutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection shall remain as the designated selection to win in that race for the Unlimited Sweepstakes calculation and the selection shall not be deemed a scratch.

(f) The Unlimited Sweepstakes parimutuel pool shall be calculated as follows:

(1) One hundred percent (100%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winner in each of the nine races comprising the Unlimited Sweepstakes.

(2) In the event there is no parimutuel ticket properly issued which correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, twenty-five percent (25%) of the net amount in the parimutuel pool shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes, and the remaining seventy-five percent (75%) of the net amount in the parimutuel pool shall not be distributed as provided above but shall be retained by the association as distributable amounts and shall be carried over and included in the Unlimited Sweepstakes parimutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).

(g)(1) Except as provided in subsection (k) and subsection (m), should no distribution be made pursuant to subsections (f)(1), then the distributable pool and all monies accumulated therein shall be carried over until that amount equals or exceeds five million dollars (\$5,000,000) or such lesser amount as the racing association designates to the Board at the time it files its license application with the Board.

(2) Once the pool and all monies accumulated therein equals or exceeds five million dollars, or such lesser amount designated by the racing association pursuant to subsection (g)(1), that amount shall be distributed on the next racing day as provided in subsection (f)(1); but if no holder of parimutuel tickets correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, then seventy-five percent (75%) of the pool shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty-five percent (25%) of the pool shall be distributed to those holders of parimutuel tickets which correctly designate the next greatest number of official winners.

(h) In the event an Unlimited Sweepstakes ticket designates a selection in any one or more of the races comprising the Unlimited Sweepstakes and that selection is scratched, excused or determined by the Stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts.

(i) In the event of a dead heat for win between two or more horses in any Unlimited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(j)(1) In the event that all nine races comprising the Unlimited Sweepstakes are cancelled or declared as no contest, all parimutuel tickets held on the Unlimited Sweepstakes for that day or night shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety for that day or night and any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

(2) In the event that fewer than nine, but no more than three, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, the pool for that racing day shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety as provided in subsection (j)(1).

(3) In the event that fewer than nine, but no fewer than four, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, one hundred percent (100%) of the net amount in the parimutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2), shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Unlimited Sweepstakes.

The retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

(k) (1) Should no distribution be made pursuant to subsection (f)(1) on the last day of the association's race meeting, then the distributable pool and all monies accumulated therein shall be distributed on that day. Seventy-five percent (75%) of the pool shall be distributed among holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty-five percent (25%) of the pool shall be distributed to those holders of parimutuel tickets which correctly designate the next greatest number of official winners.

(2) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting having an Unlimited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Unlimited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.

(l) No parimutuel ticket for the Unlimited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the nine races comprising the Unlimited Sweepstakes, except for such refunds on Unlimited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Unlimited Sweepstakes pool or the number or amount of tickets selecting winners of Unlimited Sweepstakes races until such time as the Stewards have determined the last race comprising the Unlimited Sweepstakes each day to be official.

(m) The racing association may, at its election, designate to the Board, at the time it files its license application with the Board, one or more racing days (nights) during its racing meeting on which the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2), shall be distributed as provided in subsection (g)(2), even though the retained amount is less than the amount specified in or designated by the racing association pursuant to subsection (g)(1).

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 10-2-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 40).

2. Amendment filed 5-16-88; operative 6-15-88 (Register 88, No. 21).

3. Change without regulatory effect amending subsections (a) and (h) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1976.5. Special Unlimited Sweepstakes.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 11-4-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 48).
2. New subsection (m) filed 11-28-88; operative 12-28-88 (Register 88, No. 51).
3. Change without regulatory effect amending subsections (a), (b) and (h) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
4. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1976.7. Special Reserved Unlimited Sweepstakes.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 11-23-88; operative 12-23-88 Register 88, No. 51).
2. Change without regulatory effect amending subsections (a) and (h) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
3. Repealer filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1976.8. Place Pick (n).

(a) The Place Pick (n) is a separate pari-mutuel pool established by the association on a designated number of races. The pool consists of amounts wagered on a horse to finish first or second in each of the races. It is not a parlay and has no connection with or relation to other pools conducted by the association, except for the provisions in subsection (e), or to rules governing the distribution of other pools.

(b) A valid Place Pick (n) ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Place Pick (n) provisions and rules contained in this Article.

(c) A Place Pick (n) may be given a distinctive name by the association conducting the meeting, subject to Board approval.

(d) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of such entry starts for pari-mutuel purposes in accordance with Rule 1974.

(e) If a ticket in any Place Pick (n) race designates a selection that is scratched, excused or determined by the Stewards to be a nonstarter in the race, the association may designate the actual favorite, which is determined by the amounts wagered in the win pool at the time of the start of the race, or may allow patrons the option of selecting an alternate betting interest. The actual favorite or the alternate betting interest will be submitted for the nonstarting selection for all purposes.

(f) Except as provided in subsection (f)(1), in a dead heat for win between two or more horses, only the horses in such dead heat shall be considered winning horses.

(1) In a dead heat for win between two or more coupled horses, all such horses together with the horse(s) which finishes next in order shall be considered winning horses.

(2) Except as provided in subsection (f), a dead heat for second between two or more horses, all such horses together with the horse which finished first shall be considered winning horses.

(g) The association shall distribute the net pool to holders of valid tickets that correctly selected the most first or second place finishers.

(h) All tickets shall be refunded if all races comprising the Place Pick (n) are cancelled or declared as no contest. The entire pool shall be refunded if less than four races are completed and if four or more races are completed the net pool shall be distributed pursuant to subsection (g).

(i) After wagering closes on the first race comprising the Place Pick (n) no ticket shall be sold, exchanged or cancelled. No person shall disclose the number of tickets sold in the Place Pick (n) or the number or amount of tickets that selected winners of Place Pick (n) races until the Stewards declare the last race official.

(j) If the racing surface changes from turf to dirt or dirt to turf in any race of a Place Pick (n), and such change is not announced to the public before the close of wagering on the Place Pick (n) pool, all wagers on such

race shall be considered winning wagers for the purposes of the Place Pick (n).

NOTE: Authority: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19593 and 19594, Business and Professions Code.

HISTORY

1. New section filed 6-4-92; operative 7-6-92 (Register 92, No. 23).
2. Editorial correction of subsection (h)(2) (Register 94, No. 38).
3. Amendment of subsections (g), (i)(3) and (j) and NOTE filed 9-19-94; operative 10-19-94 (Register 94, No. 38).
4. Amendment of section heading and section filed 7-19-96; operative 8-18-96 (Register 96, No. 29).
5. Amendment of section and NOTE filed 9-26-2006; operative 10-26-2006 (Register 2006, No. 39).

§ 1976.9. Pick (n) Pool.

(a) The Pick (n) requires selection of the first-place finisher in each of a number of races designated by the association. The association shall designate the percentage of the net pool considered the major share, and the percentage of the net pool considered the minor share, if any. The number of races comprising a Pick (n) must be at least four but no more than ten. Subsequent changes to the Pick (n) shall be requested in writing by the association. The Board or its designated representative shall respond in writing to such requests within five working days of their receipt at Board headquarters.

(b) The major share of the net Pick (n) pool, along with the Pick (n) carryover, shall be distributed to ticket holders that selected the first-place finisher in each of the Pick (n) races, based upon the official order of finish, and the minor share of the net Pick (n) pool shall be distributed as a win pool to ticket holders whose selection finished first in the second greatest number of Pick (n) races; if there are no wagers selecting the first place finisher in each of the Pick (n) races, then:

(1) The minor share of the net pool shall be distributed as a win pool to ticket holders whose selection finished first in the greatest number of Pick (n) races, and

(2) The major share of the net Pick (n) pool shall be retained by the association and added to the corresponding Pick (n) pool of the next performance. The additional Pick (n) pool resulting from such a carryover shall be termed the "Pick (n) carryover."

(c) In a dead heat for first in any of the Pick (n) races involving:

(1) Coupled horses or horses coupled to constitute the field, the Pick (n) pool shall be distributed as if a dead heat had not occurred, or

(2) Horses representing two or more wagering interests, all horses in the dead heat for win shall be considered winning horses to calculate the pool.

(d) If a wagering interest in any of the Pick (n) races is scratched, the association may designate the favorite, determined by total amounts wagered in the win pool at the close of wagering on that race, or allow patrons the option of selecting an alternate wagering interest. The favorite or alternate wagering interest shall be substituted for the scratched wagering interest for all purposes. If the association elects to designate the favorite and the win pool total is identical for two or more horses, the horse with the lowest program number is used. The totalizer shall produce written reports showing each of the wagering combinations with substituted wagering interests that became winners as a result of the substitution, in addition to the normal winning combination, at the end of each race where substitutions occur.

(e) The Pick (n) pool shall be canceled and all Pick (n) wagers for the individual performance shall be refunded if:

(1) Three or more races included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared no contest; or

(2) Four races included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared no contest; or

(3) Five or more races included as part of a Pick 10 are canceled or declared no contest.

(f) If at least one race included as part of a Pick (n) is canceled or declared no contest, but fewer than the number specified in subsection (e), the net pool shall be distributed as a win pool to ticket holders whose selection finished first in the greatest number of Pick (n) races for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances.

(g) The Pick (n) carryover may be capped at an amount designated by the association, with Board approval. If, at the close of any performance, the carryover equals or exceeds the designated cap, it will be frozen until it is won or distributed under other provisions of this rule. After the carryover is frozen, 100% of the net pool shall be distributed to ticket holders whose selection finished first in the greatest number of Pick (n) races for that performance.

(h) Permission to distribute the Pick (n) carryover on a specific date and performance shall be obtained from the Board. The mandatory payout request must contain the intended date and performance for the distribution.

(i) If the Pick (n) carryover is designated for distribution on a specified date and performance in which no wager selects the first-place finisher in each of the Pick (n) races, the entire pool including the carryover shall be distributed as a win pool to ticket holders whose selection finished first in the greatest number of Pick (n) races. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) With written approval from the Board as provided in subsection (h); or

(2) With written approval from the Board when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued; or

(3) On the closing performance of the meet or split meet.

(j) If the Pick (n) carryover must be carried over to the corresponding Pick (n) pool of a subsequent meet, it shall be deposited in an interest-bearing account approved by the Board. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance designated by the association, with Board approval.

(k) With Board approval, the association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap.

(l) No ticket for the Pick (n) pool shall be sold, exchanged or canceled after the close of wagering in the first race comprising the Pick (n), except for refunds required by this rule.

(m) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is prohibited. The totalizer will be programmed to suppress all information related to Pick (n) wagering activity until the conclusion of the final race except for the following:

(1) Total amount of the net pool at the close of Pick (n) wagering.

(2) Information regarding possible Pick (n) payouts for each of the runners when the last race of the Pick (n) pool is the only race remaining to be run.

(n) If the racing surface changes from turf to dirt or dirt to turf in any race of a Pick (n) pool, and such change was not announced to the public before the close of wagering on the Pick (n) pool, all wagers on such race shall be considered winning wagers for the purposes of the Pick (n) pool.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19440, 19590 and 19593, Business and Professions Code.

HISTORY

1. New section filed 10-10-91; operative 10-10-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 2).
2. Amendment of subsection designations and text filed 9-21-94; operative 10-21-94 (Register 94, No. 38).
3. Amendment filed 10-18-99; operative 11-17-99 (Register 99, No. 43).
4. Amendment filed 8-17-2005; operative 8-17-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).

§ 1977. Pick Three.

(a) The Pick Three is a separate pari-mutuel pool established on three consecutive races. The pool consists of amounts wagered on the winning horse in each of the races. It is not a parlay and has no connection with or relation to other pools conducted by the association, or to rules governing the distribution of other pools.

(b) A valid Pick Three ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Pick Three provisions and rules contained in this article.

(c) A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of such entry starts for pari-mutuel purposes in accordance with Rule 1974.

(d) The association shall distribute the net pool to holders of valid tickets that correctly selected the winners in all three races.

(e) In a dead heat for win between two or more horses in any Pick Three races, all such horses shall be considered winning horses in that race for calculating the pool. The payout shall reflect the proportionate amount of money wagered on each winning combination.

(f) If no ticket selected the winner in all three races, the net pool shall be paid for tickets that selected the winner in any two races; and if no ticket selected two winners the net pool shall be paid for tickets that selected the winner in any one race. The association shall refund the entire pool if no ticket selected the winner in any one race.

(g) If one of the races is cancelled, the net pool shall be distributed as provided in subsections (f). If more than one race is cancelled the association shall refund the entire pool.

(h) If a wagering interest is scratched (which hereinafter includes being declared a non-starter) from any leg of the Pick Three prior to the running of the first leg, all wagers containing such scratched wagering interests shall be refunded.

(i) If a wagering interest is scratched from the second leg after the start of the first leg, a consolation payout shall be computed for those wagers combining the winners of the first and third legs with such scratched horse(s) as follows: The amount represented by wagers on combinations involving horse(s) scratched from the second leg shall be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winners of the first and third legs with horse(s) scratched from the second leg.

(j) If a wagering interest is scratched from the third leg after the start of the second leg, a consolation payout shall be computed for those wagers combining the winners of the first and second legs with such scratched horse(s) as follows: The amount represented by wagers on combinations involving horse(s) scratched from the third leg shall be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winners of the first and second legs with horse(s) scratched from the third leg.

(k) If wagering interests are scratched from both the second and third legs after the start of the first leg, a consolation payout shall be computed for those wagers combining the winner of the first leg with horse(s) scratched from both the second and third legs as follows: The amount wagered on the winner of the first leg combined with all other horse(s) scratched from the second and third legs shall be deducted from the gross pool. The resulting pool, net of takeout, shall be distributed as a win pool among tickets combining the winner of the first leg with horse(s) scratched from both the second and third legs.

(l) After wagering closes on the first race of the Pick Three no ticket shall be sold, exchanged or cancelled. No person shall disclose the number of tickets sold in the Pick Three races or the number or amount of tickets that selected winners of Pick Three races until the stewards declare the last race official. After the second of three races, the association may display potential distributions dependent upon the outcome of the third race.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 10-29-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 44).
2. Amendment of subsections (a)-(b), (l)-(m) and NOTE filed 11-1-95; operative 11-1-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 44).
3. Amendment of section heading and section filed 6-3-96; operative 7-3-96 (Register 96, No. 23).
4. Amendment filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49).

§ 1978. Select Four.

(a) The Select Four parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the asso-

ciation, nor to any win, place and show pool shown on the totalizer board, nor to the rules governing the distribution of such other pools.

(b) A valid Select Four ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the said ticket shall constitute an acceptance of Select Four provisions and rules contained in Article 18.

(c) A Select Four may be given a distinctive name to be selected by the association conducting such races, such as "PICK 4," subject to the approval of the Board.

(d) The Select Four parimutuel pool consists of amounts contributed for a selection for win only in each of four races designated by the association with the approval of the Board. Each person purchasing a Select Four ticket shall designate the winning horse in each of the four races comprising the Select Four.

(e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Select Four shall race as a single wagering interest for the purpose of the Select Four parimutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Select Four calculation, and the selection shall not be deemed a scratch.

(f) The net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all four races comprising the Select Four.

(g) If no ticket is sold combining the four winners of the Select Four, the net amount in the parimutuel pool shall be distributed among the holders of tickets which include the winners of any three of the four races comprising the Select Four.

(h) If no ticket is sold combining at least three winners of the Select Four, the net amount in the parimutuel pool shall be distributed among holders of tickets which include the winner of any two races comprising the Select Four.

(i) If no ticket is sold combining at least two winners of the Select Four, the net amount in the parimutuel pool shall be distributed among holders of tickets which include the winner of any one race comprising the Select Four.

(j) If no ticket is sold that would require distribution of the Select Four pool to a winner under this rule, the association shall make a complete and full refund of the Select Four pool.

(k) If for any reason one of the races comprising the Select Four is cancelled, the net amount of the parimutuel pool shall be distributed as provided above in subsections (g), (h), (i) and (j).

(l) If for any reason two or more of the races comprising the Select Four is cancelled, a full and complete refund will be made of the Select Four pool.

(m) In the event a Select Four ticket designates a selection in any one or more of the races comprising the Select Four and that selection is scratched, excused or determined by the Stewards to be a non-starter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non-starting selection for all purposes, including pool calculations and payouts.

(n) In the event of a dead heat for win between two or more horses in any Select Four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(o) No parimutuel ticket for the Select Four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the Select Four, except for such refunds on Select Four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Select Four pool or the number or amount of tickets selecting winners of Select Four races until such time as the Stewards have determined the last race comprising the Select Four to be official. Notwithstanding the above, at the conclusion of the third of the four races comprising the Select Four, and association may with

the approval of the Board display potential distribution to ticket holders depending upon the outcome of the fourth race of the Select Four.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 9-7-88; operative 9-12-88 pursuant to Government Code Section 11346.2(d) (Register 88, No. 37).
2. Change without regulatory effect amending subsections (a) and (m) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).

§ 1979. Trifecta.

(a) The Trifecta is a separate pari-mutuel pool established on a single race. The pool consists of amounts wagered on horses to finish first, second and third in that exact order. It is not a parlay and has no connection with or relation to other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Trifecta ticket is evidence of a binding contract between the holder of the ticket and the association and constitutes acceptance of Trifecta provisions and rules contained in this article.

(c) No Trifecta pool shall be established for a race with less than six wagering interests scheduled to start when the Trifecta pool opens for wagering in California. A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of such entry starts for pari-mutuel purposes in accordance with Section 1974.

(d) After the stewards' official order of finish is posted, the association shall distribute the net pool to holders of valid tickets that correctly selected the first, second and third finishers.

(e) In a dead heat for first or second position, only tickets selecting the correct order of finish for the first three finishers shall be winning tickets; that is, two horses in a dead heat for first shall be first and second, in either position; and two horses in a dead heat for second shall be second and third, in either position. In a triple dead heat for first, the three horses shall be the winning combination regardless of the order of selection. In a triple dead heat for second, tickets with the correct first selection and two of the three horses shall be winning tickets. In a triple dead heat for third, tickets with the correct first and second selection and one of the three horses shall be winning tickets.

(f) If no ticket correctly selected the first, second and third position, the net pool shall be paid for tickets that selected first and second. If no ticket selected first and second the net pool shall be paid for tickets that selected first. The association shall refund the entire pool if no ticket selected first.

(g) If the stewards scratch a horse before wagering is closed, the association may exchange any ticket that includes the scratched horse. After wagering is closed, tickets selecting a scratched horse or a horse the stewards declared a nonstarter shall be eliminated from the pool and the purchase price refunded.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 3-15-91; operative 3-15-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 15).
2. Repealer of subsections (l) and (m) filed 1-27-92; operative 1-27-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 12).
3. Editorial correction of printing error in subsections (g) and (h) (Register 92, No. 24).
4. Amendment of subsection (e) and repealer of subsection (k) filed 6-9-92; operative 7-9-92 (Register 92, No. 24).
5. Amendment of subsections (a)-(b), repealer and new subsections (c)-(g) and repealer of subsections (h)-(j) filed 6-5-96; operative 6-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 23).
6. Amendment filed 9-30-99; operative 9-30-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 40).
7. Amendment of subsection (f) filed 12-11-2001; operative 1-10-2002 (Register 2001, No. 50).

§ 1979.1. Superfecta.

(a) The Superfecta is a separate pari-mutuel pool established on a single race. The pool consists of amounts wagered on horses to finish first, second, third, and fourth in that exact order. It is not a parlay and has

no connection with other pools conducted by the association or to rules governing the distribution of other pools.

(b) A valid Superfecta ticket is evidence of a binding contract between the holder of the ticket and the association and constitutes acceptance of Superfecta provisions and rules contained in this article.

(c) No Superfecta pool shall be established for a race with less than eight wagering interests scheduled to start when the Superfecta pool opens for wagering in California. A wager on a coupled entry or field is considered a wager on the remaining part of the coupled entry or field if any part of the entry starts for pari-mutuel purposes under Rule 1974 of this division.

(d) After the stewards' official order of finish is posted, the association shall distribute the net pool to holders of valid tickets that select the first, second, third, and fourth finishers.

(e) In a dead heat for first, second, or third position, only tickets selecting the correct order of finish for the first four finishers shall be winning tickets; that is, two horses in a dead heat for first shall be first and second, in either position; two horses in a dead heat for second shall be second and third, in either position; and two horses in a dead heat for third shall be third and fourth, in either position. In a dead heat for fourth, tickets with the correct first, second, and third selection and one of the two horses in the dead heat for fourth shall be winning tickets. In a triple dead heat for first, tickets selecting the three horses in the dead heat, regardless of the order of selection, and the horse finishing fourth shall be winning tickets. In a triple dead heat for second, tickets with the correct first selection and all three horses in the dead heat shall be winning tickets. In a triple dead heat for third, tickets with the correct first and second selection and two of the three horses in the dead heat shall be winning tickets. In a triple dead heat for fourth, tickets with the correct first, second, and third selection and one of the horses in the dead heat shall be winning tickets.

(f) If no ticket selects the first, second, third, and fourth position, the net pool shall be paid for tickets that select first, second, and third. If no ticket selects first, second, and third position, the net pool shall be paid for tickets that select first and second. If no ticket selects first and second, the net pool shall be paid for tickets that select first. The association shall refund the entire pool if no ticket selects first.

(g) If the stewards scratch a horse before wagering is closed, the association may exchange any ticket that includes the scratched horse. After wagering is closed, tickets selecting a scratched horse or a horse the stewards declared a nonstarter shall be eliminated from the pool and the purchase price refunded.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

HISTORY

1. New section filed 9-16-99; operative 10-16-99 (Register 99, No. 38).
2. Amendment of subsection (f) filed 9-18-2003; operative 10-18-2003 (Register 2003, No. 38).

Article 19. Policing the Public Inclosure

§ 1980. Persons Prohibited from Wagering.

(a) The following classes of persons are prohibited from participating in pari-mutuel wagering and from being present within any inclosure during a recognized race meeting:

- (1) Persons who have engaged in any act of or who have been convicted of bookmaking or illegal wagering.
- (2) Persons who have engaged in any act of or who have been convicted of touting.
- (3) Persons who have engaged in or who have been convicted of an illegal, corrupt or fraudulent act in connection with horseracing or pari-mutuel wagering.
- (4) Persons who have engaged in any act of or who have been convicted of theft from the person (pickpockets).

(5) Persons who have submitted to be cashed any altered, raised, forged or counterfeit pari-mutuel ticket.

(6) Persons whose license has been revoked by the Board or by any State Horse Racing Commission.

(b) For the purposes of this section:

(1) Bookmaking includes, but is not limited to, any act prohibited by Section 337a of the Penal Code or by Section 19595 of the Business and Professions Code.

(2) Illegal wagering includes, but is not limited to, any act prohibited by Sections 319 through 336, inclusive, of the Penal Code.

(3) Touting includes any act prohibited by Section 337.1 of the Penal Code; and further includes offering to furnish information concerning a selection of a horse for wagering purposes, or predicting the outcome of a race for wagering purposes, in exchange for a pari-mutuel ticket or other consideration which is contingent on the outcome of the race; or soliciting compensation or a gratuity either before or after a race for any racing information, racing selection or racing prediction for wagering purposes, except in the manner permitted by law.

(4) Corrupt or fraudulent acts include, but are not limited to, any act prohibited by Sections 337b through 337i, inclusive, 337.3, 337.6, 337.7 or 337.8 of the Penal Code.

NOTE: Authority cited: Section 19572, Business and Professions Code. Reference: Sections 19410, 19572, 19574 and 19595, Business and Professions Code; and Sections 319-336, 337a, 337.1, 337.3, 337.6, 337.7 and 337.8, Penal Code.

HISTORY

1. Amendment of section and new NOTE filed 4-11-94; operative 5-11-94 (Register 94, No. 15).
2. Repealer and new subsection (a)(6) and repealer of subsections (a)(7) and (a)(8) filed 1-24-97; operative 2-23-97 (Register 97, No. 4).
3. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1981. Duty to Exclude Prohibited Persons.

Racing associations, fairs and simulcast wagering facilities shall exclude and eject from their inclosures persons who are prohibited from participating in pari-mutuel wagering and from being present within any inclosure. No racing association, fair or simulcast wagering facility shall knowingly issue any credential to or admit such persons and any admission ticket or credential is void if held by such persons.

NOTE: Authority cited: Sections 19572 and 19574, Business and Professions Code. Reference: Sections 19410, 19572 and 19574, Business and Professions Code.

HISTORY

1. New NOTE and amendment of section heading and text filed 3-29-94; operative 4-28-94 (Register 94, No. 13).
2. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1982. Notice of Exclusion or Ejection.

The Association shall inform any person excluded or ejected from its inclosure of the reason for the ejection or exclusion, and shall notify such person of the provisions of this article. Notification may be made by the delivery to the person excluded or ejected of a copy of this article. The Association shall immediately notify the Board on the form prescribed by the Board, the name of any person ejected or excluded, the reason for the ejection or exclusion, and such other information as the Board may require.

§ 1983. Application for Hearing.

Any person ejected or excluded from any racing inclosure may file a written application with the Board for a hearing on the question of whether he is within any of the classes of persons who are prohibited from participating in pari-mutuel wagering and from being present within any racing inclosure. Applications must be on the form prescribed by the Board, briefly state the circumstances of the ejection or exclusion, and clearly identify and be signed by the applicant.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19440 and 19573, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1984. Place and Notice of Hearing.

The application for hearing on exclusion or ejection shall be set for hearing before the Board, a referee designated by the Board, or before a Hearing Officer of the Office of Administrative Hearings. The Board shall mail to the applicant and any other interested party notice of the time and place of the hearing.

§ 1985. Waiver of Hearing.

If an applicant fails to appear at the time and place set for hearing, the Board may take whatever action it deems appropriate.

§ 1986. Determination of Rehabilitation.

(a) If the Board finds that the applicant is within one of the classes of persons who are prohibited from participating in pari-mutuel wagering and from being present within any racing inclosure, the Board may, in its discretion, make a further finding that the applicant's presence within the public inclosure would not be against the best interests of horse racing, and an exception should be made authorizing him to participate in pari-mutuel wagering in the future.

(b) If the applicant holds a current CHRB occupational license, the Board shall make a separate determination regarding the applicant's fitness for continued licensing. The determination shall be made at the same time as any findings made under subsection (a) of this rule.

NOTE: Authority cited: Sections 19440, 19572 and 19573, Business and Professions Code. Reference: Sections 19420, 19440, 19461, 19572, 19573 and 19574, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 8–10–93; operative 8–10–93 (Register 93, No. 33).
2. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1987. Notice of Findings and Determinations After Hearing.

Upon the conclusion of the hearing, the referee or Hearing Officer shall make findings and determinations on the issues and submit recommendations to the Board. The Board shall consider such findings, determinations and recommendations and shall render its decision. The Board shall notify the applicant in writing of each determination and the decision made by it, and shall enter its decision in its minutes.

§ 1988. Appearance and Evidence at Hearing.

At the hearing before the Board, its referee or Hearing Officer, the applicant is entitled to appear in person and/or by counsel, and such evidence as is necessary and proper to resolve the issues presented shall be received. The applicant may file a written answer or statement in which he may controvert any point at issue, and may present any argument or evidence for consideration. Any association may appear as a party of interest in the matter and at the hearing if it so desires.

§ 1989. Removal or Denial of Access.

(a) An association, fair or simulcast facility may remove from its premises any person who:

- (1) Is disorderly as defined in Section 647 of the Penal Code.
- (2) Interferes with any racing operation.
- (3) Solicits or engages in any act of prostitution.
- (4) Begs, is boisterous, or is otherwise offensive to other persons.
- (5) Commits any public offense.
- (6) Is intoxicated.

(b) Any person may be removed or denied access for any reason deemed appropriate by the association, fair or simulcast facility notwithstanding the fact that such reason is not specified in the rules.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19440, Business and Professions Code; and Section 647, Penal Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 1–24–97; operative 2–23–97 (Register 97, No. 4).

§ 1990. Denial of Access to Private Property.

HISTORY

1. Repealer filed 1–24–97; operative 2–23–97 (Register 97, No. 4).

Article 20. Conflict of Interest**§ 2000. General Provisions.**

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission (FPPC) has adopted a regulation, 2 California Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the FPPC to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the FPPC along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Horse Racing Board.

Designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of the Commissioners, the agency shall make and retain a copy and forward the original of these statements to the FPPC. Statements for all other designated employees will be retained by the agency.

NOTE: Authority cited: Section 87306, Government Code. Reference: Sections 87300–87302 and 87306, Government Code.

HISTORY

1. New article 20 (sections 2000–2012, consecutive) filed 5–26–77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4–20–77 (Register 77, No. 22).
2. Repealer of article 20 (sections 2000–2012) and new article 20 (section 2000 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Amendment of section and Appendix filed 6–23–93; operative 6–23–93. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 5–12–93 (Register 93, No. 26).
4. Amendment of Appendix filed 8–19–94; operative 9–19–94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 7–8–94 (Register 94, No. 33).
5. Amendment of Appendix filed 6–2–97; operative 7–2–97. Approved by Fair Political Practices Commission 4–10–97 (Register 97, No. 23).
6. Amendment of section and Appendix filed 5–17–99; operative 6–16–99. Approved by Fair Political Practices Commission 3–29–99 (Register 99, No. 21).
7. Amendment of Appendix filed 5–22–2001; operative 6–21–2001. Approved by Fair Political Practices Commission 4–6–2001 (Register 2001, No. 21).
8. Amendment of Appendix filed 9–2–2003; operative 10–2–2003. Approved by Fair Political Practices Commission 7–7–2003 (Register 2003, No. 36).

Appendix*Designated Positions**Assigned Disclosure Categories*

Commissioners (members)	1, 2
Executive Director	1, 2
Career Executive Assignment 2 (Assistant Executive Director)	1, 2
Chief Investigator	1, 2
Staff Services Manager I/II	1, 2
Senior Management Auditor	1, 2
Senior Programmer Analyst (Chief Information Officer)	1, 2
Staff Services Analyst/Associate Governmental Program Analyst (Contracts Analyst)	1d
Business Services Assistant/Business Services Officer	1d
Stewards	1, 2
Supervising Special Investigator I, Senior Special Investigator and Special Investigator I	1, 2
Associate Governmental Program Analyst (Public Relations Officer)	1, 2
Consultants	1, 2, 3
Racing Officials—Official Veterinarian	1a, b, 2

*Disclosure Categories**Category 1*

All designated employees shall report:

Any investments, business positions and sources of income, including gifts, loans and travel payments in a source which:

(a) Is a racing association or entity, which has a financial interest in a racing association or racetrack or any management company which participates in or earns any income from pari-mutuel wagering.

(b) Is a business or person "attendant upon horses" and is subject to licensing and/or regulation by the California Horse Racing Board (Board);

(c) Is a concessionaire of a racing association subject to approval by the Board;

(d) Is a business that has, within the previous two years, leased space, or provided goods, services, equipment, materials or supplies of the type used by the Board;

(e) The designated employee knows, or has reason to know, has contracted with, or plans to contract with, any concessionaire of a racing association to provide products for use by that concessionaire in connection with the concession;

(f) Is any person against whom the Board is contemplating legal or administrative action or has intervened in such action;

(g) Is a manufacturer, wholesaler, or distributor of products required or approved by the Board for use at racing association meetings.

Category 2

All designated employees shall report:

Any investments in or sources of income, including gifts, loans and travel payments derived from racehorses or from persons or entities that own or breed racehorses.

Category 3

Consultants shall disclose all economic interests as outlined in Categories 1 and 2 with the following exception:

The Executive Director may determine, in writing, that a particular consultant, hired to perform a range of duties limited in scope, is not required to fully comply with the disclosure requirements in this rule. The written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Article 21. The Standardbred Sires Stakes Program

§ 2020. The Standardbred Sires Stakes Committee.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401 and 19440, Business and Professions Code.

HISTORY

1. New Article 21 (Sections 2020–2035) filed 3–16–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer filed 1–9–81; effective thirtieth day thereafter (Register 81, No. 2).

§ 2021. Committee Reports.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401 and 19440, Business and Professions Code.

HISTORY

1. Repealer filed 1–9–81; effective thirtieth day thereafter (Register 81, No. 2).

§ 2022. Delegation of Authority and Administration.

The organization recognized by the Board as the registry of California-bred standardbred horses and the organization recognized by the Board as representing standardbred horse owners and trainers are delegated jointly the authority to administer the California Standardbred Sires Stakes Program and the recognized organizations are mutually responsible to the Board for administration of the program. The recognized organizations shall elect or appoint jointly a person who shall administer the Sires Stakes Program. The administrator shall be authorized to file claims for administrative expenses from funds appropriated for such purposes,

shall file with the Board the official results of Sires Stakes races for payment of purses and awards, shall file on December 31 of each year an annual report of operations of the California Standardbred Sires Stakes Program, and is authorized to accept nomination and other fees for deposit in the State Treasury.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401 and 19440, Business and Professions Code.

HISTORY

1. Repealer and new section filed 1–9–81; effective thirtieth day thereafter (Register 81, No. 2).

§ 2023. Appropriations and Support.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401 and 19440, Business and Professions Code.

HISTORY

1. Repealer filed 1–9–81; effective thirtieth day thereafter (Register 81, No. 1).

§ 2024. Standardbred Stallion Registry.

A standardbred Stallion Registry shall be maintained by the Board or its designee and no standardbred stallion nor the offspring of such stallion shall be eligible for participation in the California Standardbred Sires Stakes Program unless registered with the said official Stallion Registry.

§ 2025. Nomination of Stallions.

Standardbred stallions shall be nominated annually to the official registry by application in such form prescribed by the Board accompanied by a nomination fee determined by the Board and by a true and correct copy of the Registration Certificate issued to the nominated stallion by the United States Trotting Association.

(a) The eligibility and nomination of a previously registered stallion may be renewed upon the submission of a nomination application form and the nomination fee determined by the Board.

(b) No person shall be authorized to nominate a standardbred stallion unless the nominator is duly licensed by the Board as a horse owner.

(c) A stallion shall be nominated to the official registry prior to the time he is first used for breeding purposes in California.

(d) On or after November 30, 1977, the closing date each year for nominations of stallions for the succeeding breeding season shall be November 30th of each calendar year.

§ 2026. Grounds for Refusal of Nomination.

In addition to any other valid ground or reason, the Board or its designee may refuse to accept a nomination of a standardbred stallion for the California Sires Stakes Program when:

(a) The stallion is used for breeding purposes outside the State of California at any time during the season for which he is to be or has been nominated.

(b) The stallion does not meet the requirements for nomination or is nominated after the published closing date for such nominations.

(c) The nominator of a stallion is not licensed as a Horse Owner.

(d) The nominator of a stallion is not the owner in fact of the said stallion and is not authorized by power of attorney to act on behalf of the true owner or owners of the said stallion.

(e) The nominator of a stallion has broken or violated any rule or condition regarding participation in the California Standardbred Sires Stakes Program as provided in this article.

§ 2027. Grounds for Termination of Eligibility.

In addition to any other valid ground or reason, the Board or its designee may terminate the eligibility of a nominated standardbred stallion after having given notice of such termination to the nominator of the stallion and after giving such nominator the opportunity to be heard, when:

(a) The stallion is used for breeding purposes at any place outside the State of California during the breeding season for which he is nominated and registered.

(b) The nominator or true owner or owners of the stallion fail to comply with any rule or condition of the nomination or registry requirements.

(c) The nominator, true owner or owners, engage in any acts in connection with the breeding of horses which are of themselves fraudulent or grossly negligent or misrepresentative, or otherwise inimical to the conduct of the California Standardbred Sires Stakes Program.

§ 2028. Publication of Registered Stallions.

The Board or its designee shall publish a complete list of standardbred stallions as registered with the Board or its designee on or before the 15th of December of the calendar year preceding each breeding season in such form as the Board shall determine. The fact that the name or identity of a standardbred stallion is not published shall not affect the nomination or eligibility of such stallion nor shall it impose any liability on the Board or its designee in the absence of malice or intent to deprive a nominated stallion its eligibility.

§ 2029. Ownership of Stallion for Award Purposes.

An award made to any stallion pursuant to the California Standardbred Sires Stakes Program shall be paid to the person designated on the application for nomination filed with the Board or its designee and payment to such designated person shall relieve the Board or its designee of any further liability for payment. Any required notice or any service of process shall be made to such designated person and shall be considered as service or notice to all partners, shareholders in interest, or others holding any financial interest in such stallion. The Board or its designee may withhold any award pending a determination of eligibility and shall give notice of the withholding of award and the reasons therefor.

§ 2030. Breeding Contracts.

All breeding contracts with registered standardbred stallions shall contain therein a statement as a condition of the contract that the stallion has not left and will not leave the State of California for breeding purposes during the breeding season of the contract. The Board or its designee may demand a true and correct copy of any breeding contract to assure that any such contract complies with the conditions and rules of this article.

§ 2031. California-Owned Filly Races.**HISTORY**

1. Repealer filed 9–15–82; effective thirtieth day thereafter (Register 82, No. 38).

§ 2032. California Residency Requirement.

For the purpose of this article, the term California resident shall mean a person who meets one or more of the following requirements:

- (a) A person registered to vote in California.
- (b) A person whose principal place of residence has been within the State of California for the preceding six consecutive months.
- (c) A person who has been physically present in California for ninety days or more and who intends to remain in California and to establish a principal place of residence in this State.

§ 2033. California-Owned Horse.

A "California-Owned" horse shall mean a horse which is owned by a California resident as defined in this article, or is owned by a partnership, corporation, limited liability company (Corporations Code section 17000 et seq.) or syndicate when all persons having any financial interest in such partnership, corporation, limited liability company or syndicate are California residents, on the first day of January of the year the horse is two-years old and remains in such ownership up to and including the day such horse competes in a California-Owned race.

NOTE: Authority cited: Sections 19420 and 19619, Business and Professions Code. Reference: Sections 19440 and 19619, Business and Professions Code.

HISTORY

1. Amendment of section and new NOTE filed 8–14–98; operative 9–13–98 (Register 98, No. 33).

§ 2034. Official Registry.

The California Harness Horse Breeders Association is recognized as the Official Stallion Registry under Rule 2024 of this division. All funds coming into the control of the official registry for nominating, sustaining or entry fees shall be transmitted to the Board on the first day of each month for deposit into the "California Standardbred Sires Stakes Fund" of the General Fund.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440, 19562 and 19566.6, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and adding new NOTE filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 2035. California Standardbred Sires Stakes Guide.

The Board shall cause to be published an Annual Stakes Guide summarizing the conditions for the California Standardbred Sires Stakes races. Any such race under the conditions thereof as published shall be conducted by the specified harness racing association.

Article 22. Horsemen's Organizations and Agreements

§ 2040. Horsemen's Organizations for Owners or Trainers.

The Board recognizes the need for horse owners and trainers to negotiate and to covenant with racing associations regarding the conditions for each race meeting, the distribution of commissions and purses not governed by statutory distribution formulas, and other matters relating to welfare, benefits and prerogatives of the parties to the agreement. To fulfill its duties to the public in authorizing the conduct of an uninterrupted, orderly race meeting during the licensed term of such meetings, the Board shall acknowledge one respective horsemen's organization that represents horse owners and trainers of each separate breed of racehorse that competes in such meetings except Thoroughbreds. The Board shall acknowledge separate horsemen's organizations for owners and trainers of Thoroughbred racehorses as defined in Section 19613 of the Business and Professions Code.

(a) The Board shall acknowledge only one horsemen's organization for each breed of racehorse, except Thoroughbreds, as the organization empowered exclusively to contract with racing association for the conduct of a race meeting. No person shall serve as an officer or director of an acknowledged horsemen's organization, other than in an honorary capacity, at the same time such person serves as an officer or director of a licensed racing association or as an officer or director of any entity which is a principal shareholder of any licensed racing association.

(b) Upon the filing with the Board of a notice of intent by an alternate horsemen's organization whose membership is 1500 members or more,

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the alternate horsemen's organization, shall have not more than six (6) months from the date of filing to acquire, on a petition, signatures of ten percent (10%) of the existing organization's licensed members. The alternate horsemen's organization petitioning to decertify an existing horsemen's organization whose membership is fewer than 1500 shall have not more than six (6) months from the date of filing to acquire, on a petition, signatures of thirty percent (30%) of the existing organization's licensed members.

(1) The notice of intent shall contain the name of the horsemen's organization, the names of the principals of the horsemen's organization, the date of filing, the articles of incorporation and a copy of the petition as it will be circulated.

(2) No more than one (1) petition by any alternate horsemen's organization to decertify an existing horsemen's organization shall be circulated at any given time.

(c) Upon receipt of a petition that meets the criteria in subsection (b) of this Rule, the Board shall consider the petition, and shall validate the signatures found on said petition. Validation includes, but is not limited to, verification of current CHRB license numbers and signature verification.

(1) If the validated signatures are found to meet the requirements of subsection (b) in this Rule, the Board shall thereupon establish a date and conduct an election among the existing organization's licensed members.

(2) If the validated signatures do not meet the requirements of subsection (b) in this Rule, the Board shall notify the alternate and the existing horsemen's organization that no further action shall be taken on the petition.

(d) A deciding vote of fifty percent (50%) plus one (1) of the ballots returned shall be used to determine the one organization to be acknowledged as representing the organization's licensed members.

(e) Except for good cause, the Board shall not conduct an election within eighteen (18) months of a prior election among the organization's licensed members.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19401(a) and (e), 19613, 19613.1, 19613.2 and 19613.3, Business and Professions Code.

HISTORY

1. New article 22 (sections 2040–2045) filed 4–12–79; designated effective 7–1–79 (Register 79, No. 15).
2. Amendment of section and NOTE filed 6–2–94; operative 7–2–94 (Register 94, No. 22).
3. Amendment of section heading, section and NOTE filed 9–22–95; operative 10–22–95 (Register 95, No. 38).

§ 2041. Agreements to Be Binding on Members.

Any agreement, covenant, or contract entered into by the acknowledged horsemen's organization with any licensed racing association is binding upon each horse owner or trainer or participant who accepts the conditions of the meeting by accepting stall space at such meeting. No such owner or trainer or participant nor any member, employee, agent, director, or representative of a horsemen's organization shall counsel, urge, advocate, aid or abet the violation of any provision of any horsemen's agreement, covenant or contract during its term.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

§ 2042. Agreements to Be Binding on Associations.

Any agreement, covenant, or contract entered into by the acknowledged horsemen's organization with any licensed racing association is binding upon the racing association and its employees, agents, representatives and officials. No employee, agent, representative or official of the association shall counsel, urge, advocate, aid or abet the violation of any provision of any horsemen's agreement, covenant or contract during its term.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

§ 2043. Adjudication of Controversies Relating to Agreements.

A complaint alleging a violation of any provision of an agreement between a horsemen's organization and a racing association may be filed with the Board by either of the contracting entities. The Board shall immediately investigate the allegations and may refer the complaint to the Board of Stewards appointed for the meeting where the violation is alleged to have occurred, or refer the matter for hearing under the provisions of Rule 1414 of this division. The stewards or a referee may, after hearing the matters alleged, order compliance with the terms of the contract if within their authority to do so, or propose to the Board a decision or other course of action including therein their recommendations to the Board.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 2044. Agreements to Be Filed.

Each racing association shall file a copy of its agreement with the horsemen's organization, or in the case of fairs the horsemen's organizations, representing the horse owners and trainers at its meeting at the same time the association files its application for license. In the event the association is unable to obtain and file such agreement with its application, the Board may upon notice to the prospective parties to the agreement conduct a hearing with regard to the conditions for the meeting and take such action as it may deem appropriate to insure continuity of the racing program. The horsemen's organization shall provide a copy of the agreement for the conduct of the meeting to any person requesting the same and shall cause to be posted on the bulletin board of the association a notice of the location where a copy of the agreement may be obtained.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

§ 2045. Prohibited Provisions of Horsemen's Agreements.

No agreement between the association and the horsemen shall include provisions which are in conflict with the Horse Racing Law, the rules of the Board, or usurp the authority of the Board, including but not limited to:

- (1) Provisions which limit or specify the number of races to be programmed on any day or night of the meeting;
- (2) Provisions which specify the number of days per week during which racing will be conducted at the meeting;
- (3) Provisions which specify the type of pari-mutuel wagering to be conducted by the association or the number of multiple-wager (exotic) pari-mutuel pools to be conducted; or

(4) Provisions which may serve to exclude participation at the meeting by any individual holding a valid license issued by the Board. Nothing herein is deemed an abridgment of Rules 1485 and 1989 of this division.

NOTE: Authority cited: Sections 19440, 19562, Business and Professions Code. Reference: Sections 19401(a), (e), Business and Professions Code.

HISTORY

1. Change without regulatory effect amending subsection (4) filed 12–23–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
2. Change without regulatory effect amending subsection (4) filed 1–24–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 4).
3. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

Article 23. Charity Foundations and Welfare Funds

§ 2046. Filing of Annual Financial Report.

Every distributing agent selected and qualified pursuant to Sections 19553 and 19554 of the Business and Professions Code shall file with the Board within 135 days after the close of its fiscal year a financial report

prepared by a certified public accountant. The required annual report shall be prepared in accordance with generally accepted auditing standards including verification of the eligibility of charitable organizations to which distributions were made.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19554, 19555, 19556 and 19557, Business and Professions Code.

HISTORY

1. New Article 23 (Sections 2046–2048) filed 12–10–82; effective thirtieth day thereafter (Register 82, No. 50).

§ 2047. Requests for Approval of Charity Fund Distribution.

A request by a distributing agent filed with the Board for approval of a distribution of charity days' net proceeds to one or more beneficiaries shall include therein the total amount of charity days' net proceeds held by the distributing agent, the name of each beneficiary selected for a distribution, a brief statement as to the purpose of each beneficiary, the amount to be distributed to each beneficiary, a representation by the distributing agent as to the eligibility of all beneficiaries, the total amount of the net proceeds to be approved by the Board for the requested distributions, and the amount of net proceeds to be held by the distributing agent after the approved distributions are made.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19555, 19556 and 19557, Business and Professions Code.

§ 2048. Horsemen's Organization Welfare Fund.

Every horsemen's organization which maintains a welfare fund entitled to any moneys or payment from unclaimed pari-mutuel pool distributions under provisions of Section 19641 of the Business and Professions Code shall file with the Board within 90 days after the close of its fiscal year a financial report prepared by a certified public accountant. The annual report shall be prepared under generally accepted auditing standards and include a description of each activity or program funded by unclaimed pari-mutuel pool distributions. The administrator of the welfare fund or the horsemen's organization shall file an accompanying report concerning the programs or activities implemented or proposed at the time the report is submitted, a five-year estimate of the annual total cost of the programs or activities, and the statutory basis for the programs or activities.

NOTE: Authority cited: Section 19440, Business and Professions Code; and the Supplemental Report of the 1981 Budget Act. Reference: Section 19641, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 2049. Designation and Approval of Horsemen's Welfare Fund.

The horsemen's organization acknowledged by the Board under Rule 2040 of this division shall establish a charitable corporation to administer its welfare fund for the benefit of horsemen. The charitable corporation shall register with the Registry of Charitable Trusts and be in compliance with the provisions of the Uniform Supervision of Trustees for Charitable Purposes Act (Government Code Sections 12580 et seq.). The Board shall designate the charitable corporation as the "welfare fund" for the purposes intended under Section 19641(b) of the Business and Professions Code (B&P Code); if:

(a) The charitable corporation shall have a minimum of five and a maximum of nine directors or trustees who are subject to Board approval. The charitable corporation may not be a subsidiary or division of the horsemen's organization. The directors or trustees of the charitable corporation may be common directors of the horsemen's organization if at least forty percent of the directors or trustees of the charitable corporation have no financial interest in horse racing as a licensed horse owner, trainer, or assistant trainer and are not a current member of the horsemen's organization. The charitable corporation shall select at least one director or trustee without financial interest in horse racing pursuant to B&P Code Section 19641.2(c). The term of a director or trustee is two years. A director or trustee may serve succeeding terms.

(b) The charitable corporation shall establish its fiscal year to be July 1 through June 30 and shall establish a principal office for the conduct

of its activities and as the repository for its records. Its records shall be open to inspection by the Board during normal business hours. The corporation shall publish a report of its activities biennially.

(c) The directors or trustees shall appoint an administrator of the welfare fund who shall procure a license from the Board and perform the duties directed by the directors or trustees.

(d) The directors or trustees shall establish a constitution or bylaws setting forth criteria for eligibility of the beneficiaries of the various programs and activities to be funded under Section 19641(b) of the B&P Code and submit to the Board on or before October 31 of each year a proposed schedule of expenditures from the fund for the next fiscal year specifying therein the categories, programs or activities for which funds will be expended.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Sections 19641 and 19641.2, Business and Professions Code; and Section 9.00, Chapter 324, Statutes of 1983 (Budget Act of 1983).

HISTORY

1. New section filed 1–30–85; effective thirtieth day thereafter (Register 85, No. 5).
2. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
3. Amendment of first paragraph and subsections (a) and (d) filed 7–8–2002; operative 8–7–2002 (Register 2002, No. 28).

§ 2050. Beneficiaries, Welfare Programs and Activities.

These regulations establish the appropriate uses for funds paid to the designated charitable corporations under the provisions of Section 19641(b) of the Business and Professions Code. The directors or trustees of the welfare fund shall limit the eligibility for benefits to natural persons who engage in occupations directly relating to the physical care of horses at California racetracks or approved auxiliary stable areas and to the spouse or dependent children of such persons. Natural persons who have engaged in occupations directly relating to the physical care of horses at California racetracks or approved auxiliary stable areas, and their spouse or dependent children, may be eligible for benefits for not more than one year after the termination of such employment. Welfare funds may be expended for:

(1) Health care services including costs associated with the contracting for physicians' or dentists' professional services, hospitalization of an eligible beneficiary or dependent, outpatient, rehabilitative or preventative medical programs, restorative dental services, alcohol and drug abuse treatments, and capital outlay for medical or dental clinics and necessary equipment.

(2) Extended medical and health assurance including supplemental medical and hospitalization insurance coverage premiums, support or residential board and care facilities including capital outlay expenditures and reimbursements for beneficiaries confined to convalescent facilities or to facilities or institutions providing geriatric care.

(3) Emergency financial assistance including temporary family assistance financial aid, food or subsidized meal tickets or food vouchers, temporary housing expenses, emergency transportation expenses, burial expenses for an eligible beneficiary or immediate family member, and legal expenses of an eligible beneficiary.

(4) Educational and recreational activities including counseling and chaplaincy programs, Alcoholics Anonymous or similar programs, intra-mural sports activities and sports equipment, tickets and transportation to sports events, health and hygiene education classes, legal/immigration clinics, classes in spoken English, and expenditures for counselors, chaplains, and instructors for such activities.

(5) Administration costs necessary to administer, supervise and audit the operations of the charitable corporation provided that the expenditures for such administration purposes not exceed 15% of the total expenditures for any fiscal year.

NOTE: Authority cited: Section 19440, Business and Professions Code. Reference: Section 19641, Business and Professions Code; and Section 9.00, Chapter 324, Statutes of 1983 (Budget Act of 1983).

HISTORY

1. New section filed 1–30–85; effective thirtieth day thereafter (Register 85, No. 5).
2. Amendment filed 7–30–2002; operative 8–29–2002 (Register 2002, No. 31).

Article 24. Intrastate Simulcast Wagering

§ 2056. Definitions.

As used in this article:

- (a) "Assistance simulcast facility supervisor" means a person licensed by the Board to perform the duties described in Rule 2061 of this article.
- (b) "Authorized user" means an entity which includes any individual, partnership, corporation or other association or organization authorized by the Board as defined in Rule 2057 of this article to receive, decode and use for legal purposes the encrypted simulcast signal of California horse racing events.
- (c) "Common pools", "common pooling" means the pari-mutuel wagers at one or more guest associations contributed into the pari-mutuel pools of a host association; the act of contributing pari-mutuel wagers into the parimutuel pools of a host association.
- (d) "Decoder" means a device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals.
- (e) "Distributable amounts" means the amount withheld from the wagering dollar that is not returned to the public, and is distributed under Articles 9.2 and 9.5, Chapter 4, Division 8 of the Business and Professions (B&P) Code.
- (f) "Downlink" means a receiving antenna coupled with an audio-visual signal receiver compatible with and capable of receiving simultaneous audio-visual signals and/or pari-mutuel data emanating from a host association, and includes the electronic transfer of received signals from the receiving antenna to TV monitors or pari-mutuel equipment within the simulcast facility.
- (g) "Encryption," "encrypted," "encoded" means the scrambling or other manipulation of the audio-visual signals to mask the original video content of the signal causing the signals to be indecipherable and unrecognizable to entities receiving the signals who are not authorized users.
- (h) "Guest," "guest association" means an entity licensed by the Board as defined in Rule 2057(a) of this article to receive a host association's simulcast or signal to operate a facility where simulcast wagering is offered on the host association's racing card.
- (i) "Host," "host association" means the racing association or fair conducting a licensed horse racing meeting under Sections 19608 and 19608.1 of the B&P Code which simulcasts its racing program.
- (j) "Inclosure," "inclosure-public" includes areas of the simulcast facility as defined by Sections 19410 and 19410.5 of the B&P Code.
- (k) "Intrastate simulcast wagering" means pari-mutuel wagering at a California guest association on California horse racing events being run at a California racing meeting.
- (l) "Satellite transponder," "transponder" means a specific channel on a communication satellite.
- (m) "Simulcast," "simulcasting" means live audio-visual electronic signals emanating from a licensed horse racing meeting and transmitted via satellite or other medium simultaneously with the running of the horse racing events at that meeting, and includes the transmission of pari-mutuel wagering odds, amounts wagered and payout on the events, and other horse racing programming relating to the racehorses or participants.
- (n) "Simulcast facility supervisor" means a person licensed by the Board to perform the duties described in Rule 2061 of this article.
- (o) "Simulcast organization," "organization" means an entity formed under Section 19608.2 of the B&P Code.
- (p) "Simulcast service supplier" means a person engaged in providing service, supplies or equipment necessary to the operation of intrastate simulcast wagering for use by a host association, guest association, simulcast organization or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment; but does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders.

(q) "Simulcast wagering facility," "intrastate wagering facility" means the physical premises, structure and equipment utilized by a guest association for the conduct of pari-mutuel wagering on horse racing events being run elsewhere.

(r) "Totalizator equipment" means computerized pari-mutuel wagering system.

(s) "Uplink" means an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals and/or data.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19410.5, 19601, 19605, 19605.1, 19605.2, 19605.3, 19605.6, 19608, 19608.1, 19608.2 and 19619.6, Business and Professions Code.

HISTORY

1. New section filed 3-23-88 pursuant to a decision by the Governor overruling OAL's disapproval of this section on the basis that the Board's Notice of Proposed Rulemaking was invalidated by intervening statutory amendments (Government Code section 11349.5); operative 4-22-88 (Register 88, No. 17). The Horse Racing Board agreed to resolve all other legal issues identified in OAL's disapproval of these sections in a subsequent rulemaking.
2. Amendment of article heading, section and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect amending subsection (m) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
4. Editorial correction of subsection (q) (Register 99, No. 50).
5. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).
6. Change without regulatory effect amending section and NOTE filed 10-14-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 2057. Initial Application and Approval of a Simulcast Facility.

No person, which includes any individual, partnership, corporation, or other association or organization, shall conduct or attempt to conduct wagering on the results of races simulcast from a race meeting held in this State unless authorized and permitted to do so by the Board as follows:

(a) A racing association, fair or other entity proposing to act as a guest association shall complete an Application for Authorization to Operate a Simulcast Wagering Facility (Form CHRB-25, Rev. 4/92) which is hereby incorporated by reference. Form CHRB-25 shall be available at the Board's administrative office. The application shall be filed with the Board at least ninety (90) days prior to the first day of racing for review, investigation and approval based on the following conditions:

(1) In order to allow an evaluation of the competence, integrity, and character of the applicant to operate a simulcast wagering facility, any person, corporation, trust association, partnership or joint venture shall submit with the application, a Personal History Record (Form CHRB-25A, Rev 7/93), which is hereby incorporated by reference, for the following:

(A) If the applicant is a corporation, the officers, directors, and each owner, directly or indirectly, of any equity, security or other ownership interest in the corporation. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five (5) percent or more of the publicly held securities need be disclosed.

(B) If the applicant is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the applicant is an association, the members, officers and directors.

(D) If the applicant is a subsidiary, the officers, directors, and stockholders of the parent company thereof. However, in the case of owners of a publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five (5) percent or more of the publicly held securities need be disclosed.

(E) If the applicant is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner, or joint venturer of any applicant is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then the disclosure of such informa-

tion, shall be made, as necessary, to determine ultimate ownership. However, in the case of owners of publicly held equity securities of a publicly traded corporation only the names and addresses of those known to the corporation to beneficially own five (5) percent or more of the publicly held securities need be disclosed.

(G) If the applicant employs a management company, disclosure shall apply to the management as set forth in subsections A through F as appropriate.

(2) The applicant has executed an agreement with a simulcast organization for the conduct of simulcast wagering at its facility; or may act on its own behalf by contracting with simulcast service suppliers and each individual racing association or fair to act as a guest association. A copy of each signed contract must accompany the application (Form CHRB-25, Rev. 4/92).

(3) Every licensed simulcast facility shall be inspected by the fire authority having jurisdiction as dictated by that authority's inspection schedule. After each inspection, a fire clearance by the fire authority must be obtained by the simulcast facility and filed with the Board within ten (10) calendar days of its receipt. This clearance must indicate that the facility meets the standard of fire safety set by the fire authority and that said facility is in compliance with fire safety codes as are applicable in that jurisdiction.

(4) Every simulcast facility shall be equipped with a downlink system consisting of a network broadcast quality satellite receiving antenna coupled with a broadcast specification Ku and/or C band receiver compatible with the encryption system used, with motorized directional control, electrical service, coaxial cabling, or equivalent or industry-accepted cabling, closed-circuit TV monitors and audio system, and a public address system.

(5) The guest association shall provide a patron area for parimutuel wagering and the observation of the satellite signal as received from the host association. The patron area shall be designated on the application by the applicant. Such area shall be the inclosure-public, as defined in Section 2056(j) in this Article, of the simulcast facility. No form of horse racing wagering, either in person, or by the use of runners, messengers, or otherwise shall be permitted outside the inclosure. All odds data made available to the guest association by the host association shall be displayed at all times. Effective January 1, 1994 for new facilities, the only offices permitted in restricted parimutuel access areas will be those required for operation of the parimutuel system.

(6) The guest association shall appoint and have on duty while racing is being conducted, a simulcast facility supervisor or an assistant simulcast facility supervisor as defined in Section 2056 (a) and (n) in this Article.

(7) Every person employed by a guest association within the restricted area of the inclosure, as defined in Section 1420(v) in this Division and Section 2056(j) in this Article, of the simulcast facility is required to be licensed pursuant to Sections 1440 and 1481 in this Division.

(8) Every guest association shall provide security personnel to protect the public and maintain the peace within the simulcast wagering facility. Additionally, the guest association shall maintain such security controls over its inclosure and premises, as defined in Section 1420(g) in this Division, the areas where uplink and downlink equipment is located, fencing, access gates, cables, wires and power lines and warning notifications where uplink and exterior equipment is located and the equipment room where inside downlink receiving components are located as the Board's Executive Director or his/her designee shall direct. Guest associations shall also remove, deny access to, eject or exclude persons as provided by Sections 1980 and 1989 in this Division.

Guest associations shall have the right to request, in writing, that the Chairman of the Board grant a stay from such security controls directed by the Executive Director within seventy-two (72) hours of the directive. If granted, such a stay shall remain in force until an appeal can be considered at the next regularly scheduled public meeting of the Board. An appeal must be submitted, in writing, at least two (2) weeks prior to the meeting date. The directive will be in force until a stay is issued or the Board renders its decision on the appeal. Decisions by the Board shall be

final.

(9) No guest association shall conduct wagering on any race or races other than those approved by the Board or simulcast by its host association.

(10) No guest association, except as provided for in Business and Professions Code Section 19605.3, may discontinue its operation nor conduct any activity which would cause interruption of the signal without giving the Board and the host association prior written notice within fifteen (15) calendar days of such discontinuance or other change.

(11) Plans for new, proposed simulcast facility sites or for the remodeling or alteration of existing sites shall be submitted to the Board for review prior to the preparation of construction drawings. The Board shall review and approve said plans relative to security for the parimutuel operations, placement of data lines and overall compatibility with Board policy and regulation within thirty (30) working days from the date the plans were received. If applicable, the simulcast organization named in the agreement described in (a)(2) of this Section shall be notified by the guest association of the availability of the plans and shall have the right to review them relative to security for the parimutuel operations and placement of data lines and comment to the Board prior to Board approval or denial of the plans.

(12) In the case of a fair, the Department of Food and Agriculture must approve the application pursuant to the provisions of Sections 19605.1, 19605.2 and 19605.6 of the Business and Professions Code. Such approval is not required for the California Exposition and State Fair and the Los Angeles County Fair.

(b) The Board will notify an applicant in writing within fourteen (14) calendar days from the receipt date by the Board's Administrative Office if its application is incomplete. This notice will include:

(1) Instructions as to what is required of the applicant to complete the application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(c) The Board shall approve or deny a completed application within sixty (60) calendar days from the receipt date by the Board unless the applicant requests and is granted additional time to supply information.

(d) If the Board denies approval of the application, the applicant has thirty (30) calendar days, from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. This request must be in writing and sent to the Board's Administrative office. If reconsideration is denied, the applicant has thirty (30) days to file for Superior Court review in accordance with Section 19463 of the Business and Professions Code.

(e) The approval of the application by the Board shall constitute a license to operate as a simulcast wagering facility subject to the compliance provisions of Section 19433 of the Business and Professions Code.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19410, 19410.5, 19460, 19433, 19463, 19601, 19605, 19605.1, 19605.2, 19605.6, 19608, 19608.1 and 19608.2, Business and Professions Code; and Sections 15376 and 15378, Government Code.

HISTORY

1. New section filed 3-23-88 pursuant to a decision by the Governor overruling OAL's disapproval of this section on the basis that the Board's Notice of Proposed Rulemaking was invalidated by intervening statutory amendments (Government Code section 11349.5); operative 4-22-88 (Register 88, 17). The Horse Racing Board agreed to resolve all other legal issues identified in OAL's disapproval of these sections in a subsequent rulemaking.
2. Amendment of section heading, text and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Amendment of subsection (a)(8) filed 7-21-95; operative 8-20-95 (Register 95, No. 29).

§ 2058. Duties of A Racing Association or Fair Offering Simulcast Wagering.

(a) A racing association or fair may simulcast its racing program as the host association and/or any other association or fair racing programs as

an authorized user either by forming its own simulcast organization as defined in Rule 2059 of this division or by acting on its own behalf by contracting with each individual fair or racing association simulcast facility or by contracting with an existing simulcast organization. If the association or fair acts on its own behalf, it is responsible for all of the provisions outlined in Rule 2060 of this division.

(b) A host association is responsible for the content and broadcast quality of its simulcast and shall use all reasonable effort to present a simulcast which offers viewers an exemplary depiction of its racing program, e.g., pre-race activities such as the paddock area, pony riders and racehorses on the track, the starting gate, the actual race in its entirety and post race activities such as the replay of the race, the finish line showing the horses crossing in slow motion, any replay where there is an inquiry by the stewards, the winner's circle and excerpts of the race. A periodic display of wagering information shall be shown, e.g., the odds information, win, place and show pools and the probable payouts on different types of wagers on the screen and scanning of the tote board on an intermittent basis. The simulcast shall contain continuity programming between horse racing events, e.g., display of the paddock and walking ring, replays of the previous race, the horses and outriders, odds information and overall activity at the track.

(c) Simulcasts must be encrypted using a time displacement decoding algorithm encryption system. If new technology is available, approval by the Board's Pari-mutuel Operations Committee must be obtained before its use by a simulcast facility. Approval shall be requested in writing to the Board. The Board shall act to approve the request at its next regularly scheduled Pari-mutuel Operations Committee meeting if the request is received two weeks before the meeting date.

(d) The content of every simulcast video will contain a digital display of the calendar date, time of day, name of the racetrack from where it emanates and the number of the race being displayed. All replays of races will be so designated on the video image.

(e) Every host association shall make its totalizer system available for common pooling of pari-mutuel amounts from guest associations with pari-mutuel pools. All wagers made available by a host association shall be made available to all simulcast facilities.

(f) If the host association is authorized by the Board to simulcast a feature race for wagering use by any California racing association, fair or simulcast facility, and is authorized, under Section 19601(a)(3) of the Business and Professions Code, not to combine the wagers made at the other association, fair or facility with its own pari-mutuel pools, the association shall nevertheless pay the license fee on all amounts wagered on the feature race based on the license fee schedule applicable to its race meeting.

(g) A facsimile (FAX) machine must be available at all times in the totalizer room for ease of administration when pools are merged with other simulcasting facilities.

NOTE: Authority cited: Section 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19460, 19480, 19601, 19602, 19605, 19605.1, 19605.2, 19605.3, 19605.4, 19605.6, 19608, 19608.1, 19608.2 and 19619.6, Business and Professions Code.

HISTORY

1. New section filed 3-23-88 pursuant to a decision by the Governor overruling OAL's disapproval of this section on the basis that the Board's Notice of Proposed Rulemaking was invalidated by intervening statutory amendments (Government Code section 11349.5); operative 4-22-88 (Register 88, No. 17). The Horse Racing Board agreed to resolve all other legal issues identified in OAL's disapproval of these sections in a subsequent rulemaking.
2. Amendment of section heading, text and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Editorial correction of Authority cite (Register 95, No. 8).
4. Change without regulatory effect amending subsection (b) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
5. Change without regulatory effect amending section filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 2059. Initial Application and Approval of a Simulcast Organization.

(a) Any association, fair, entity or person proposing to act as a simulcast organization shall file an Application for Approval to Operate a Simulcast Organization, (Form CHRB-34, Rev. 1/91) which is hereby incorporated by reference, with the Board for approval based on the following conditions:

(1) The applicant is an entity authorized by law to conduct business in this state.

(2) The applicant establishes its banking accounts with an insured institution, has a principal office in California for the conduct of its business, retains a certified public account to conduct an annual audit of its financial statements or operations, agrees to submit an annual financial statement of its operations to the Board, and agrees to the inspection of its accounts and financial records by the Board or its agents.

(3) The applicant demonstrates, by including a copy of the organization's charter, articles or bylaws with the application (Form CHRB 34, Rev. 1/91), that it offers meaningful representation on its governing board to any non-racing fair or any horsemen's organization as provided in Section 19608.2 of the Business and Professions Code.

(4) The governing board of the applicant organization must hold one public meeting during each calendar year. At least fifteen (15) calendar days prior notice must be given in the Daily Racing Form or other newspaper of general circulation for the purpose of reporting the organization's activities and for receiving public comments as to its simulcasting operations. The simulcast organization shall give fifteen (15) calendar days prior notice, in writing, to its associations, fairs and the horsemen's organizations eligible to vote at the simulcast organization's governing board meeting and the Board of any simulcast organization meeting. The organization shall maintain a minute record of the proceedings of its governing board.

(b) The Board will notify an applicant in writing within fourteen (14) calendar days from the receipt date by the Board's Administrative office if its application is incomplete. This notice will include:

(1) Instructions as to what is required of the applicant to complete the application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(c) The Board will approve or deny a completed application within sixty (60) calendar days from the receipt date by the Board. The Board may withdraw, suspend or revoke its approval on grounds or reasons which include, but are not limited to, the following determinations:

(1) The simulcast organization is ineligible to conduct business in this state pursuant to any federal or state statute.

(2) The simulcast organization or any of its officers, directors, partners or principal management employees have engaged in any activity which is a grounds for denial, suspension or revocation of a license pursuant to this Division, or has failed, refused or neglected to comply with any Board order, rule, regulation, or order by the Board's stewards reasonably related to its operations as a simulcast organization. The approval shall remain denied, suspended or revoked until all parties of the organization comply with Board conditions. The remaining parties of the organization shall not be prohibited from applying for a new approval if compliance cannot be obtained from the offending party.

(3) The simulcast organization has failed, refused or neglected to perform any duty imposed by this Division or by the provisions of Sections 19608.2, 19605.7, 19605.71, or 19608.4 of the Business and Professions Code.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19608.2 and 19608.4, Business and Professions Code; and Sections 15376 and 15378, Government Code.

HISTORY

1. New section filed 3-23-88 pursuant to a decision by the Governor overruling OAL's disapproval of this section on the basis that the Board's Notice of Proposed Rulemaking was invalidated by intervening statutory amendments (Gov-

ernment Code section 11349.5); operative 4–22–88 (Register 88, No. 17). The Horse Racing Board agreed to resolve all other legal issues identified in OAL's disapproval of these sections in a subsequent rulemaking.

2. Amendment of section heading, text and NOTE filed 10–4–93; operative 11–3–93 (Register 93, No. 41).

§ 2060. Duties of a Simulcast Organization.

A simulcast organization, under the supervision of the Board, conducts pari-mutuel wagering at one or more simulcast facilities on the results of horse races run at one or more host racing associations.

(a) The organization shall provide a copy of its operational agreement with each host or guest association and/or authorized user to the Board for approval within 10 calendar days following the execution date of the agreement. The Board shall act to approve or disapprove the agreement within 45 calendar days of the date of its receipt by collective action at a noticed public meeting. The Board shall act to approve the agreement when:

(1) The agreement with each host association specifies the terms and conditions under which the simulcast organization will administer the audio-visual transmission of the host association's racing program for simulcast wagering purposes, for a period of not less than the entire term of the host association's race meeting and on the conditions agreed upon by the parties.

(b) A simulcast organization shall provide the following to its guest locations:

(1) Pari-mutuel personnel/supervisor, pari-mutuel terminals and telecommunication equipment for the transmission and reception of pari-mutuel data to and from the totalizator utilized by the host association, pari-mutuel odds display data, and courier or armored transport services for the delivery of pari-mutuel funds and receipts for which the simulcast organization is responsible. Any pari-mutuel wagering odds display data available at the host association shall be available at all guest associations participating in that host's pari-mutuel pools.

(2) A communication system consisting of data and voice lines for operations when providing its audio-visual signals.

(3) A simulcast audiovisual signal of horse races being held or conducted at its contracting host associations. Every simulcast shall be encrypted using a time displacement decoding algorithm encryption method.

(4) Access to the totalizator equipment operated by the host association conducting its meeting to combine the pari-mutuel wagers from the guest associations with the pari-mutuel pools formed by the wagers accepted at the host association.

(c) A simulcast organization is strictly responsible to the Board to transmit the same high quality audio-visual signal as transmitted by the host association and for the conduct of pari-mutuel wagering at each contracting simulcast facility under this division, and as required by Business and Professions Code Section 19608.2.

(d) Audiovisual signals must be of broadcast quality and the simulcast organization shall initiate a test program of its transmitter, encryption and decoding system, and data and voice communication systems not later than 20 minutes before post time of the first race of the simulcast racing program to ensure proper operation of its system.

(e) The simulcast organization must insure that system failures which cause any public complaint, discontinuance of pari-mutuel wagering or facility closure are responded to by qualified technicians within 24 hours of the failures.

(f) The simulcast organization shall, at the written request of any representative of the Board, display a listing of all locations where the organization or its simulcast service supplier has placed a decoder unit. The listing shall include the serial number of each decoder, and whether or not the decoder is electronically enabled to decode the encrypted simulcast.

(g) The simulcast organization shall maintain security controls over its uplink and communication systems and its pari-mutuel operations as directed by the Board's Executive Director or his/her designee. The simulcast organization shall prevent unauthorized access to its pari-mutuel and totalizator areas and tampering with its audio-visual and communi-

cation equipment. Simulcast organizations have the right to request, in writing, that the Chairman of the Board grant a stay from the security controls directed by the Executive Director within 72 hours of the directive. If granted, the stay remains in force until an appeal can be considered at the next regularly scheduled public meeting of the Board. Appeals must be submitted, in writing, at least two weeks before the meeting date. The directive will be in force until a stay is issued or the Board renders its decision on the appeal. Decisions by the Board are final.

(h) A simulcast organization shall file with the Board an annual audited financial statement of its operations within 120 days after the end of its fiscal year of operation and permit the Board to examine its business records upon written request.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19608.2 and 19608.4, Business and Professions Code.

HISTORY

1. New section filed 3–23–88 pursuant to a decision by the Governor overruling OAL's disapproval of this section on the basis that the Board's Notice of Proposed Rulemaking was invalidated by intervening statutory amendments (Government Code section 11349.5); operative 4–22–88 (Register 88, No. 17). The Horse Racing Board agreed to resolve all other legal issues identified in OAL's disapproval of these sections in a subsequent rulemaking.
2. Amendment of section heading, text and NOTE filed 10–4–93; operative 11–3–93 (Register 93, No. 41).
3. Change without regulatory effect amending subsection (g) filed 6–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 23).
4. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 2061. Duties of the Simulcast Facility Supervisor or Assistant Simulcast Facility Supervisor.

The simulcast facility supervisor or assistant simulcast facility supervisor is responsible for the oversight of the facility to ensure compliance with the Board's laws, rules and regulations. The duties of a simulcast facility supervisor or assistant simulcast facility supervisor, in addition to any duties and responsibilities required by his/her employer, include, but are not limited to, immediately reporting to the Board or its stewards, in writing or by telephone, any violation of the Board's rules or regulations which come to their attention or of which they have knowledge. This includes referrals of matters involving misconduct of licensees to the host track stewards and ordering the exclusion or ejection of persons who are prohibited from participating in pari-mutuel wagering and from being present within any racing inclosure during a recognized race meeting. Additional duties include maintaining minutes of the conduct of each day's events at the simulcast location where assigned, supervising all phases of the facility which are directly related to the requirements of the Board's laws and regulations at the simulcast location. The supervisor does not hire or fire pari-mutuel employees nor does he/she oversee the performance of the pari-mutuel employees with regard to personnel matters. The supervisor does, however, have a responsibility to report to the Board any non-compliance with the Board's laws and regulations as they pertain to pari-mutuel matters.

NOTE: Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19520, 19521 and 19522, Business and Professions Code.

HISTORY

1. New section filed 10–4–93; operative 11–3–93 (Register 93, No. 41). For prior history, see Register 93, No. 13.
2. Change without regulatory effect amending section filed 12–6–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

Article 25. Interstate Simulcast Wagering

§ 2063. Out-of-State and Interstate Wagering.

(a) The Board shall authorize a racing association or a guest association to conduct simulcast wagering on the results of one or more races conducted by an out-of-state racing association, provided:

(1) The association intending to conduct wagering on an out-of-state race files with the Board a copy of the agreement with the out-of-state association and the written approvals required by Chapter 57, commenc-

ing with Section 3001, of Title 15 of the United States Code, and a statement setting forth the date and time it intends to commence accepting wagers on the out-of-state race(s).

(2) The Board approves the methods by which the out-of-state association intends to transmit the simulcast of its race(s) and the restrictions, if any, placed on the use of the simulcast, and the methods to be used to assure a separate voice communication system between its stewards and the stewards at the track where the race(s) are held.

(3) The out-of-state race(s) are qualified feature events and the fee to be paid for use of the out-of-state race(s) does not exceed 50% of the retained amount from pari-mutuel wagers after deduction for license fees, local government fee, and any mandated guest association fee.

(4) The Board determines that the conduct of wagering on the race(s) best serves the interest of the public and the sport of horse racing.

(b) The Board shall authorize a racing association to use its simulcast for interstate wagering by out-of-state betting systems provided:

(1) The association files with the Board a copy of the agreement with the out-of-state betting system which sets forth the payment to the association for use of its simulcast, and of any agreements required by Chapter 57, commencing with Section 3001, of Title 15 of the United States Code.

(2) Payment of the license fee required by Section 19602 (b) of the Business and Professions Code be made weekly, on the day specified by the Board, accompanied by a transmittal statement setting forth the gross amount received by the association from the interstate wagering use of its simulcast and the distribution of that gross amount.

(3) The simulcast complies with Rule 2057(d), (e) and (f) of this division.

(4) The Board determines that use of the simulcast by the out-of-state wagering systems best serves the interests of the public and sport of horse racing.

NOTE: Authority cited: Sections 19420, 19440 and 19590, Business and Professions Code. Reference: Sections 19596, 19596.5, 19601, 19602, 19615 and 19616, Business and Professions Code.

HISTORY

1. Renumbering of former section 2061 to section 2063 filed 3-25-93; operative 3-25-93 (Register 93, No. 13).
2. Editorial correction of subsection (b)(4) (Register 96, No. 49).
3. Change without regulatory effect amending section and NOTE filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

Article 26. Advance Deposit Wagering

§ 2070. Definitions.

As used in this article:

(a) "Account" means an Advance Deposit Wagering Account used to record credits, debits, deposits and withdrawals.

(b) "Account Holder" means a natural person that has established an Account.

(c) "Account Number" means a unique identification number designated by the Licensee, Betting System, CA Hub or out-of-state Hub.

(d) "Advanced Deposit Wagering" means a form of pari-mutuel wagering in which an Account Holder residing within or outside California establishes an Account and then authorizes a Board approved Licensee, Betting System, CA Hub or out-of-state Hub by telephone or Other Electronic Media to place wagers on horse racing on the Account Holder's behalf. Only the Licensee, Betting System, CA Hub or out-of-state Hub that holds the Account can make an advance deposit wager for the Account Holder. Wagering instructions that concern funds held in an Account shall be deemed issued within the inclosure of the Licensee.

(e) "Applicant" means any entity including, but not limited to, corporations, partnerships, limited liability companies, limited partnerships, or individuals that file an Application to conduct Advance Deposit Wagering.

(f) "Application" means the CHRB-132 application that must be Board-approved prior to a Licensee, Betting System or CA Hub being

licensed or the CHRB-133 application that must be Board-approved prior to an out-of-state Hub being approved.

(g) "Betting System" means a business conducted exclusively in California that facilitates pari-mutuel wagering on races it simulcasts and other races it offers in its wagering menu.

(h) "Board" means the California Horse Racing Board.

(i) "Confidential Information" means the following:

(1) The amount of money credited to, debited from, or present in any particular Account Holder's Account;

(2) The amount of money wagered by a particular Account Holder on any races or series of races;

(3) The Account Number and secure Means of Personal Identification of an Account Holder;

(4) The identities of particular entries on which the Account Holder is wagering or has wagered;

(5) Unless otherwise authorized by the Account Holder, the name, address, and other information in possession of the Licensee, Betting System, CA Hub or out-of-state Hub that would identify the Account Holder to anyone other than the Board, Licensee, Betting System, CA Hub or out-of-state Hub.

(j) "Credits" means all positive inflow of money to an Account.

(k) "Debits" means all negative outflow of money when placing a wager from an Account or for the purchase of horse racing related merchandise and services.

(l) "Deposit" means a credit of money to an Account from an Account Holder.

(m) "Licensee" means an association or fair licensed to conduct a horse racing meeting only within the inclosure and on the dates the Board authorized horse racing.

(n) "Market Access Fee" means the contractual fee paid by a Betting System, CA Hub or out-of-state Hub to the California Licensee for access to the California market for wagering purposes. The fee shall be distributed in accordance with Section 19604(g) of the Business and Professions Code.

(o) "Means of Personal Identification" means the unique number, code or other secure technology designated by an Account Holder to assure that only the Account Holder has access to his or her Account.

(p) "Multi-jurisdictional Wagering Hub" means a business conducted in more than one jurisdiction that facilitates pari-mutuel wagering on races it simulcasts and other races it offers in its wagering menu. The term "CA Hub" will be used for locations in California and "out-of-state Hub" for locations outside California.

(q) "Natural Person" means any person at least 18 years of age.

(r) "Other Electronic Media" means any electronic communication device or combination of devices including, but not limited to, personal computers, the Internet, private networks, interactive television and wireless communication technologies or other technologies approved by the Board.

(s) "Proper Identification" means a form of identification that establishes the person making a transaction is the Account Holder.

(t) "Withdrawal" means a payment from an Account by the Licensee, Betting System, CA Hub or out-of-state Hub to the Account Holder.

(u) "Withdrawal Slip" means the form provided by the Licensee, Betting System, CA Hub or out-of-state Hub to an Account Holder to withdraw funds.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New article 26 (sections 2070, et seq.) and section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2071. License to Conduct Advance Deposit Wagering by a California Applicant.

(a) Prior to an Account being established or wagering being conducted the Applicant located in California must be licensed by the Board. All licenses granted shall be subject to the provisions of Business and Professions (B&P) Code Section 19460 et. seq.

(b) An Applicant for license shall complete an Application for License to Conduct Advance Deposit Wagering, CHRB-132 (New 9/01), hereby incorporated by reference, which is available at the Board's administrative office. The Application must be filed not later than 90 days in advance of the scheduled start date of operation. A bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000 must accompany the Application. The term of the license shall be two years from the date the license is issued.

(c) Applicants shall establish security access policies and safeguards pursuant to B&P Section 19604.

(d) Applicants that accept wagers from California residents shall provide a full accounting and verification of the source of the wagers, and a detailed wagering information file that includes, but is not limited to, dollar amount wagered, pool on which the wager was placed, race number and racing venue, zone, breed, zip code of the Account Holder, time wagering stopped, and time of the wager in the form of a daily download of pari-mutuel data to the Board designated database, California Horse Racing Information Management System, that is compatible with a Comma Delimited Text File.

(e) Applicants shall provide financial information that demonstrates the financial resources to operate Advance Deposit Wagering and provide a detailed budget that shows anticipated revenue, expenditures and cash flows by month projected for the term of the license.

(f) The Board may conduct investigations, inspections or request additional information from the Applicant as it deems appropriate in determining whether to approve the license.

(g) The Board, or its designee, shall be given access for review and audit of all records. The Applicant shall, at their location during hours of operation, make such information available. The Board may require the Applicant to annually submit audited financial statements.

(h) All advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization.

(i) Applicants shall enter into a written contractual agreement with the bona fide labor organization that has historically represented the same or similar classifications of employees at the nearest horse racing meeting.

(j) The Board shall notify the Applicant in writing within 30 calendar days from the receipt date by the Board's administrative office if the Application is complete or deficient. If the Application is deficient, the notice shall include:

(1) Instructions as to what is required of the Applicant to complete the Application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(k) The Board shall approve or deny an Application within 90 calendar days from the receipt date by the Board unless the Applicant requests and is granted additional time to supply information.

(l) If the Board denies an Application, the Applicant has 30 calendar days, from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. The request must be in writing and sent to the Board's administrative office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If reconsideration is denied, the Applicant may file for judicial review in accordance with Section 11523 of the Government Code.

(m) Subsequent to the issuance of a license to conduct Advance Deposit Wagering under this article, changes or amendments to information or operating procedures contained in an Application will be permitted by order of the Board or by Board approval of a request submitted in writing by the Applicant.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19460 and 19604, Business and Professions Code.

HISTORY

1. New section filed 1-7-2002; operative 1-7-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2072. Approval to Conduct Advance Deposit Wagering by an Out-of-State Applicant.

(a) Prior to an Account being established or wagering being conducted the Applicant located out-of-state must be Board-approved. All approvals granted shall be subject to the provisions of Business and Professions (B&P) Code Section 19460 et. seq.

(b) An out-of-state Applicant shall complete an Application For Approval to Conduct Advance Deposit Wagering, CHRB-133 (New 9/01), hereby incorporated by reference, which is available at the Board's administrative office. The Application must be filed not later than 90 days in advance of the scheduled start date of operation. A bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000 must accompany the Application. The term of approval is two years from the date the approval is issued.

(c) Out-of-state Applicants shall establish security access policies and safeguards pursuant to B&P Section 19604.

(d) Out-of-state Applicants that accept wagers from California residents shall provide a full accounting and verification of the source of the wagers, and a detailed wagering information file that includes, but is not limited to dollar amount wagered, pool on which the wager was placed, race number and racing venue, zone, breed, zip code of the Account Holder, time wagering stopped, and time of the wager in the form of a daily download of pari-mutuel data to the Board designated database, California Horse Racing Information Management System, that is compatible with a Comma Delimited Text File.

(e) Out-of-state Applicants shall provide financial information that demonstrates the financial resources to operate Advance Deposit Wagering and provide a detailed budget that shows anticipated revenue, expenditures and cash flows by month projected for the term of the approval.

(f) The Board may conduct investigations, inspections or request additional information from the out-of-state Applicant as it deems appropriate in determining whether to approve the Application.

(g) The Board, or its designee, shall be given access for review and audit of all records. The out-of-state Applicant shall, at their location during hours of operation, make such information available. The Board may require the out-of-state Applicant to annually submit audited financial statements.

(h) All advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization.

(i) The Board shall notify the out-of-state Applicant in writing within 30 calendar days from the receipt date by the Board's administrative office if the Application is complete or deficient. If the Application is deficient, the notice shall include:

(1) Instructions as to what are required of the out-of-state Applicant to complete the Application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(j) The Board shall approve or deny an Application within 90 calendar days from the receipt date by the Board unless the out-of-state Applicant requests and is granted additional time to supply information.

(k) If the Board denies an Application, the out-of-state Applicant has 30 calendar days from the receipt date of the Board's denial notification, to request a reconsideration of the Board's decision. This request must be in writing and sent to the Board's administrative office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If reconsideration is denied, the out-of-state Applicant may file for judicial review in accordance with Section 11523 of the Government Code.

(l) Subsequent to the issuance of an approval to conduct Advance Deposit Wagering under this article, changes or amendments to information or operating procedures contained in an Application will be permitted by order of the Board or by Board approval of a request submitted in writing by the Applicant.

(m) As a condition of approval the out-of-state Applicant shall designate a California agent for receipt of service of process.

(n) By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Sections 19460 and 19604, Business and Professions Code.

HISTORY

1. New section filed 1-7-2002; operative 1-7-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2073. Operation of an Advance Deposit Wagering Account for All Entities.

(a) The entity may suspend or close an Account. Any Account with no activity for at least six months may be closed. When an Account is closed the entity shall return any funds within five business days to the Account Holder at the address of record.

(b) Funds shall be in an interest bearing Account.

(c) Funds in an Account shall not bear interest to the Account Holder.

(d) Residents of California shall not be charged a surcharge on any winning wager.

(e) Wagers shall be accepted during the days and times designated as operating on the CHRB-132 for California entities and the CHRB-133 for entities outside California. The entity may close for receiving wagers on any pari-mutuel pool, race(s), or close for all wagering. Anytime the entity closes during the times designated as operating on the CHRB-132 and CHRB-133 a written report shall be filed with the Board within two business days.

(f) All wagering conversations, transactions or other wagering communications through the Advance Deposit Wagering system, verbal or electronic, shall be recorded by means of electronic media, and the tapes or other records of such communications shall be kept by the entity for 180 days. These tapes and other records shall be made available to the Board upon request or order by the Executive Director.

(g) The total amount of all Account wagers shall be included in the respective pools for each race and shall be combined into the licensee's pools or directly into the corresponding pools of the host track.

(h) Accounts are for personal use only and the Account Holder is responsible to maintain the secrecy of the Account Number and Means of Personal Identification. The Account Holder must immediately notify the entity of any breach of the Account's security.

(i) Upon request of the Account Holder the entity shall provide a statement detailing Account activity for the immediate 30 days prior to the request. Unless the entity receives written notice disputing the statement within 14 days of the date a statement is forwarded, it shall be deemed to be correct.

(j) The address provided on the application to establish an Account is deemed the address of record for mailing checks, statements of Account, Account withdrawals, notices, or other correspondence. It is the responsibility of the Account Holder to notify the entity of any address change.

(k) No employee or agent of the entity shall divulge any Confidential Information related to the placing of any wager or any Confidential Information related to the operation of the Advance Deposit Wagering system without the consent of the Account Holder, except to the Account Holder as required by this article, the Board, and as otherwise required by state or federal law.

(l) Account Holders shall designate if they want to use a credit card to make deposits to their Account. Changes to the designation shall require 24 hours' notice to the entity.

(m) Account Holders shall only be permitted to access one deposit each racing day for wagering purposes. Additional deposits to an Account shall be available for use the next racing day.

NOTE: Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-7-2002; operative 1-7-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2074. Requirements to Establish an Advance Deposit Wagering Account with a California Entity.

(a) Accounts shall be established in person, by mail, telephone or Other Electronic Media before any wagering shall be conducted. An Account shall only be established in the name of a natural person and is non-transferable.

(b) Any individual prohibited from wagering under Rule 1980 shall be prohibited from establishing an Account or placing a wager.

(c) The information required to establish an Account shall include:

(1) Account Holder's full legal name.

(2) Principal residence address.

(3) Telephone number.

(4) Social security number.

(5) Identification or certification to prove the Account Holder is at least 18 years of age.

(6) Whether the Account Holder wants to use a credit card to make deposits to their Account.

(d) The entity shall employ electronic verification with respect to each Account Holder's name, principal residence address, date of birth and Social Security number at the time of Account establishment by a Board-approved national, independent, individual reference company or another independent technology approved by the Board which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.

(e) The entity may refuse to establish an Account if it is found that any of the information supplied is untrue or incomplete.

(f) When an Account is established the entity shall designate an Account Number for each Account. The number can be changed provided the Account Holder is informed prior to any change.

(g) The Account Holder shall designate a Means of Personal Identification to use to access their Account.

(h) The entity shall inform the Account Holder of the assigned Account Number and provide a copy of its Advance Deposit Wagering procedures, terms and conditions as well as any information that pertains to the operation of the Account.

(i) Each entity shall, at all times, comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from Advance Deposit Wagers by Account Holders and shall send to Account Holders subject to IRS reporting or withholding a Form W2-G summarizing the information for tax purposes following a winning wager being deposited into an Account. Upon written request, the entity shall provide Account Holders with summarized tax information on Advance Deposit Wagering activities.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2075. Requirements to Establish an Advance Deposit Wagering Account with an Out-of-State Hub.

(a) Accounts shall be established in person, by mail, telephone or Other Electronic Media before any wagering shall be conducted. An Account shall only be established in the name of a natural person and is non-transferable.

(b) Any individual prohibited from wagering under Rule 1980 shall be prohibited from establishing an Account or placing a wager.

(c) The information required to establish an Account shall include:

(1) Account Holder's full legal name.

(2) Principal residence address.

(3) Telephone number.

(4) Social Security number.

(5) Identification or certification to prove the Account Holder is at least 18 years of age.

(6) Whether the Account Holder wants to use a credit card to make deposits to their Account.

(d) The Hub shall employ electronic verification with respect to each Account Holder's name, principal residence address, date of birth and Social Security number at the time of Account establishment by a Board-approved national, independent, individual reference company or another independent technology approved by the Board which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.

(e) The Hub may refuse to establish an Account if it is found that any of the information supplied is untrue or incomplete.

(f) When an Account is established the Hub shall designate an Account Number for each Account. The number can be changed provided the Account Holder is informed prior to any change.

(g) The Account Holder shall designate a Means of Personal Identification to use to access their Account.

(h) The Hub shall inform the Account Holder of the assigned Account Number and provide a copy of its Advance Deposit Wagering procedures, terms and conditions as well as any information that pertains to the operation of the Account.

(i) Each Hub shall, at all times, comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from Advance Deposit Wagers by Account Holders and shall send to Account Holders subject to IRS reporting or withholding a Form W2-G summarizing the information for tax purposes following a winning wager being deposited into an Account. Upon written request, the Hub shall provide Account Holders with summarized tax information on Advance Deposit Wagering activities.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2076. Deposits to an Advance Deposit Wagering Account with All Entities.

(a) Deposits to an Account shall be made in the following form:

(1) Cash deposits made directly.
(2) Personal checks, cashier's checks and money orders made directly or mailed.

(3) Debits to an Account Holder's credit card or debit card, upon direct instructions of the Account Holder, providing the use of such card has been pre-approved by the entity and designated by the Account Holder.

(4) Debits by electronic fund transfer (EFT) from a monetary account controlled by an Account Holder. The Account Holder may be liable for any charges imposed by the transmitting or receiving entity and the charges may be deducted from the Account Holder's Account.

(b) Cashier's checks, money orders and EFTs shall be given immediate credit upon presentation. Credit cards or debit cards shall be given immediate credit upon authorization from the issuer.

(c) Entities shall disclose their policy regarding the acceptance of personal checks to the Account Holder.

NOTE: Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-7-2002; operative 1-7-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2077. Placing an Advance Deposit Wager with all Entities.

(a) Debits to an Account shall be made in the following form:

(1) The entity shall debit the amount wagered by an Account Holder.
(2) Wagers shall not be accepted in an amount in excess of an Account balance.

(3) The entity may debit the Account for service or other transaction-related charges.

(4) The entity may debit the Account for purchases of horse racing related merchandise and services requested by an Account Holder.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2078. Withdrawals from an Advance Deposit Wagering Account with All Entities.

(a) Withdrawals shall be completed within five business days after the entity receives a request from an Account Holder by mail, by telephone, or Other Electronic Media accompanied by the valid Account Number and a Means of Personal Identification or, if by mail, a signed completed Withdrawal Slip.

(1) If sufficient funds are available, the entity shall send a check payable to the Account Holder in the amount of the requested withdrawal to the address of record.

(2) If sufficient funds are not available, the entity shall, within five business days of receipt, provide notification to the Account Holder of insufficient funds and send a check payable to the Account Holder in the amount of the funds available to the address of record.

(b) An EFT may be used in lieu of a check at the discretion of the Account Holder and the entity subject to the same conditions set forth in Rule 2076.

(c) Account Holders may make withdrawals in person with such identification as required by the entity, the valid Account Number, and a Means of Personal Identification.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-10-2002; operative 1-10-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2079. Credit for Winning Wagers and Scratched Entries.

The Licensee, Betting System, CA Hub or out-of-state Hub shall post credits for winnings from advance deposit wagers and any credit for wagers on a scratched entry to the Account after the race is declared official.

NOTE: Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2080. Proceeds from a Deceased Account Holder.

If an Account Holder is deceased the Licensee, Betting System, CA Hub or out-of-state Hub shall release the funds in the Account to the decedent's legal representative upon receipt of a copy of a probate court authorization or other documents as required by applicable California or other state laws.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

§ 2081. Market Access Fee for Wagers Placed by a California Resident.

(a) The entity taking the wager shall pay to the appropriate California Licensee a market access fee based upon the amount of the handle generated by a resident of California as stipulated in the contractual agreement between the entity and the California Licensee and as specified and approved by the Board.

(b) The market access fee shall be equal to the amount of the wagers less payment of the winning wagers and the contractual compensation and host fee, if any.

(c) Such wagers are to be included in the appropriate pools of the host racing association and daily downloads of the details of the wager(s) will be made to the pari-mutuel database designated by the Board.

NOTE: Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-18-2002; operative 1-18-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 3).

§ 2082. Interest Bearing Accounts.

The first \$250,000 in interest earned on California resident's Accounts shall be transferred annually, split between the corresponding horsemen's welfare fund and the backstretch pension plan for the benefit of backstretch employees. Interest in excess of \$250,000 shall be transferred annually, split between the corresponding horsemen's organizations for purses as designated in Business and Professions Code Section 19613.

NOTE: Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Sections 19604 and 19613, Business and Professions Code.

HISTORY

1. New section filed 1-7-2002; operative 1-7-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 2083. Advanced Deposit Wagering Prohibited.

(a) Individuals prohibited from wagering under Rule 1969 shall be prohibited from placing an advance deposit wager while on duty at a race meeting, simulcast wagering facility or an advance deposit wagering facility located in California.

(b) Individuals working at an out-of-state Hub shall be prohibited from placing an advance deposit wager while on duty.

NOTE: Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

HISTORY

1. New section filed 1-4-2002; operative 1-4-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).

Article 28. Backstretch Worker Housing**§ 2100. General Provisions.**

Backstretch worker housing that is provided by an association shall be maintained in accordance with this article and shall be kept free from debris, garbage, vermin and other matter that may be hazardous to the health and safety of backstretch workers.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19481.5, Business and Professions Code; and Section 17920.3, Health and Safety Code.

HISTORY

1. New article 28 (sections 2100-2105) and section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).

§ 2101. Definitions.

As used in this article:

(a) "Backstretch worker" means a person required to be licensed under Rule 1481(c) of this division.

(b) "Backstretch worker housing", "habitable room" means any structure or portion of a structure whose primary purpose is for sleeping or living and is located within the restricted area of the inclosure as defined in Rule 1420(v) of this division.

(c) "Damaged" means property in a condition in which its worth or usefulness is impaired. Damage includes, but is not limited to backstretch worker housing whose components are split, buckled, sagging, rotting, broken or defective.

(d) "Substandard housing" means backstretch worker housing or a habitable room, or any portion thereof, which through lack of maintenance or repair there exists any of the following conditions to an extent that endangers the health, safety or welfare of the occupants.

(1) Lack of toilet or privy structure, bathtub or shower, or hot and cold running water.

(2) Plumbing fixtures and piping that have become unsanitary or damaged.

(3) Lack of exterior wall or roof covering adequate to protect the occupants from the elements.

(4) Damaged exterior wall or roof coverings.

(5) Damaged windows, exterior window coverings, or doors.

(6) Lack of natural light and ventilation.

(7) Damaged interior walls, ceilings or floors.

(8) Lack of interior flooring adequate to protect occupants from the elements.

(9) Dampness of habitable rooms.

(10) Lack of garbage and rubbish removal as required under Rule 3010 of this article.

(11) Infestation of insects, rodents or other vermin.

(12) Lack of smoke detector in working order, or other fire alarm system as required under Rule 1927 of this division.

(13) Lack of emergency evacuation plan as required under Rule 1928 of this division.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19481.5, Business and Professions Code; and Section 17920.3, Health and Safety Code.

HISTORY

1. New section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).
3. Change without regulatory effect amending subsections (d)(1) and (d)(2) filed 10-14-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 2102. Backstretch Worker Housing Inspection Required.

(a) Associations and racing fairs that provide backstretch worker housing shall, at least annually, submit to an inspection of such housing. The inspection shall be conducted by a designated representative of the Board with assistance from the California Department of Housing and Community Development or a local housing authority for the jurisdiction in which the track is located.

(b) Racing Fairs with race meetings of 19 days or less shall comply with this section contingent upon the provisions of Business and Professions Code Section 19481.5(b)(3).

(c) No license to conduct a horse racing meeting shall be issued unless the applicant association's backstretch worker housing is found to be in compliance with the standards established in this article.

(d) The Board shall be reimbursed by the association or racing fair for the costs incurred to conduct the backstretch worker housing inspection.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19481.5, Business and Professions Code.

HISTORY

1. New section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order, including amendment of subsection (a), transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).
3. Change without regulatory effect amending section filed 10-14-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 2103. Habitable Rooms.

(a) Habitable rooms used for sleeping shall have natural light by means of at least one exterior window that, if it can be opened, has screening with a tight fitting frame. Natural ventilation shall be provided by exterior or openings that can be opened, or in lieu of exterior openings a mechanical ventilating system.

(b) Habitable room exterior doors shall be tight fitting and outfitted with door sweeps.

(c) Interior walls, ceilings and floors of habitable rooms may not be damaged or cause exposure to outside elements or exposed earth.

(d) Habitable rooms shall be provided with electrical switches, outlets and at least one electric light. Electric components in a habitable room shall be installed to state or local building codes and maintained in a manner that does not endanger the health or safety of the occupants.

(e) Habitable rooms used for sleeping shall be provided with battery operated smoke detectors that shall be maintained in working order, or any other approved fire alarm system as provided under Rule 1927 of this division. Fire regulations and an emergency evacuation plan shall be posted in backstretch worker housing areas as provided under Rule 1928 of this division.

(f) The dimensions of a habitable room shall not be less than seven feet in any direction and shall provide not less than 50 square feet of space per person.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19485.1, Business and Professions Code.

HISTORY

1. New section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order, including amendment of subsection (a), transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).
3. Change without regulatory effect amending subsection (e) filed 10-14-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 42).

§ 2104. Sanitation Facilities.

Toilet rooms and bath and shower rooms shall be provided separately for each sex, shall be lighted, ventilated to the outside atmosphere, and shall have hot and cold running water under pressure. All such rooms, and the fixtures, equipment, and plumbing therein, shall be maintained in a state of working order and free from dirt, filth and corrosion.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19481.5, Business and Professions Code.

HISTORY

1. New section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order, including amendment of section, transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).

§ 2105. Pest Control.

(a) The association shall conduct a program of abatement to control the presence of rodents, flies, cockroaches, mosquitoes, and other vermin in and around backstretch worker housing. The methods of control shall include, but not be limited to:

(1) The daily removal of all materials that contribute to the breeding and harboring of vermin, such as horse excrement, garbage, refuse, or any other putrid or offensive animal or vegetable matter.

(2) A program of spraying or baiting for insects or rodents.

NOTE: Authority cited: Sections 19440 and 19481.5(b), Business and Professions Code. Reference: Section 19481.5, Business and Professions Code.

HISTORY

1. New section filed 5-7-2002 as an emergency; operative 5-7-2002 (Register 2002, No. 19). Pursuant to Business and Professions Code section 19481.5(b)(3), a Certificate of Compliance must be transmitted to OAL by 11-7-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-7-2002 order, including amendment of subsection (a), transmitted to OAL 8-19-2003 and filed 9-23-2003 (Register 2003, No. 39).

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**CALIFORNIA
CODE OF
REGULATIONS**

Title 4. Business Regulations

Division 5. Division of Consumer Services (Travel Promoters) [Repealed]

Division 6. Outdoor Advertising, Department of Transportation

Division 7. Secretary of State [Repealed]

Vol. 5

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Division 5. Division of Consumer Services (Travel Promoters) [Repealed]**Division 6. Outdoor Advertising, Department of Transportation****Division 7. Secretary of State [Repealed]**

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Division 5. Division of Consumer Services (Travel Promoters)

(Originally Printed 3–9–73)

NOTE: Authority cited: Section 4922.5, Public Utilities Code. Additional authority cited: Section 9891.11, Business and Professions Code.

HISTORY

1. New Chapter 5 (Sections 2100 through 2109) filed 3–9–73 as an emergency; effective upon filing (Register 73, No. 11).
2. Certificate of Compliance filed 7–6–73 (Register 73, No. 27).
3. Repealer of Chapter 5 (§§ 2100–2109) filed 10–30–75; effective thirtieth day thereafter (Register 75, No. 44).

Division 6. Outdoor Advertising, Department of Transportation

(Originally Printed 3–22–45)

Chapter 1. Outdoor Advertising—General

§ 2240. Scope.

(a) The purpose of this Division is to implement, interpret, make specific, and otherwise carry out the provisions of the California Outdoor Advertising Act, Business and Professions Code Sections 5200, et seq.

(b) The provisions of this Division apply to the placing of a Display in the following areas:

(1) A Display that is placed within 660 feet from the edge of the right of way of an interstate or a primary highway and is visible from the highway, including a Display located in an incorporated area.

(2) A Display that is placed beyond 660 feet from the edge of the right of way and is designed to be viewed primarily from an interstate or a primary highway, including a Display located in an incorporated area.

(3) A Display placed and visible from any other highway in an unincorporated area.

(c) A Display that violates the provisions of this Division is deemed to be in violation of the Outdoor Advertising Act.

(d) The provisions set forth in this Division are cumulative to all other applicable laws and regulations controlling a Display.

NOTE: Authority cited: Sections 5250, 5251, and 5415, Business and Professions Code. Reference: Sections 5200–5486, 5270, 5271, 5408.1, 5463 and 5465, Business and Professions Code; Title 23 United States Code, Section 131; and Title 23 Code of Federal Regulations, Section 750.701.

HISTORY

1. New section filed 5–12–65 as an emergency; designated effective 5–15–65. Certificate of Compliance—Section 11422.1, Government Code, included (Register 65, No. 7).
2. Amendment filed 3–26–71; effective thirtieth day thereafter (Register 71, No. 13).
3. Amendment filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).
4. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
5. New subsection (e) filed 7–17–2006 as an emergency; operative 7–17–2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–14–2006 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 7–17–2006 order by operation of Government Code section 11346.1(f) (Register 2007, No. 41).

§ 2241. Enforcement.

(a) The Department of Transportation and the Director or the Director's designee is hereby authorized and directed to enforce the provisions of the Act and these regulations, and are further authorized and directed to revoke a license or a permit and remove a Display for violating any provision of the Act or these regulations.

(b) All hearings provided for in these regulations shall be conducted in accordance with the provisions of Chapter 5, commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the

"California Administrative Procedures Act"). Any such hearing must be requested by filing a written appeal with the Director (c/o the Office of Outdoor Advertising) within thirty (30) calendar days of the written violation notice, denial, revocation or other determination being appealed. The Director shall thereafter issue a decision, based on finding of fact, affirming, modifying or vacating the denial, revocation or other determination.

(1) The written appeal shall contain the name and company affiliation, if any, address and phone number of the person appealing, the permit or license number, if any, the location of the billboard, with specificity and a statement of the basis for the appeal.

(2) No person shall be entitled to more than one hearing stemming from the same written violation notice, denial, revocation, other determination or set of facts. Hearings will be held in Sacramento, Los Angeles, or San Diego. The Director may agree to hold a hearing at a different locale under extraordinary circumstances.

(3) The failure of a permittee or other person who has appealed to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written violation notice, denial, revocation or other determination shall constitute a final order of the Director and not be subject to further administrative review.

(4) Nothing herein prevents the Department and affected party or parties from attempting to resolve the dispute informally; however, informal attempts at resolution shall not extend the thirty (30) day period to file an appeal under these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5250 and 5463, Business and Professions Code; and 23 USC Section 131(r)(2).

HISTORY

1. New section filed 6–25–76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
4. Designation of existing section as subsection (a) and new subsections (b)–(4) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2242. Definitions.

The following terms when used in this Title 4, Division 6, have the following meanings:

(a) "Accepted" means the official act of acceptance by the Department of a contractor's completion of a highway project acknowledging the contractor has performed all obligations of a highway contract.

(b) "Act" means the California Outdoor Advertising Act, Sections 5200 et seq., Business and Professions Code.

(c) "Adjacent To" means located within, either in whole or part, an area formed by measuring 660 feet laterally from the edge of the right-of-way of a landscaped freeway sections along a line perpendicular to the center line of the freeway.

(d) "Changeable" means any message change occurring more than once every twenty-four hours.

(e) "Chief Landscape Architect" means the employee of the Department of Transportation charged with statewide responsibility for supervising Highway Planting Projects.

(f) "Completed" means a contractor has performed all obligations under a highway project contract.

(g) "Continuous Planting" means State right of way contiguous to the traveled way which is planted with Ornamental Vegetation in accordance with standard landscaping practices. A physical break in the Planting of less than 200 feet for items such as a highway overcrossing or undercrossing, a stream, a canal, a stairway, a culvert, or a water system is not a gap and may not end a Continuous Planting.

(h) "Certificate of Sufficiency, formerly known as "Design Certification," means the design engineer for a given project certifies to Right of Way and Asset Management that the right of way indicated on the project maps is the area necessary for a given project.

(i) "Deputy Director Project Development" means the Deputy Director of Project Development of the Department of the Department of Transportation.

(j) "Display means an advertising Display as defined in Section 5202.

(k) "Extension" means an Incidental increase in size of the advertising area which does not exceed the height, length, or total area allowed for in Section 5408(a) of the act.

(l) "Facing" means the portion of the Display that contains advertising copy.

(m) "Highway Planting Project" means an area of State highway right-of-way planted in conformance with plans developed or approved by the Department.

(n) "Imprint" means a marker (a stake or a flag) visible and legible from the highway that identifies the applicant by name or logo placed at the location of proposed display.

(o) "Incidental" means up to 33 percent of the total advertising area of the Display as authorized according to the Department's records and relates to the specific advertising copy. Measurement is made based on the height and the length but not the depth.

(p) "Landscape Architect" means a person employed by the Department who holds a certificate to practice Landscape Architecture in California under the authority of Division 3, Chapter 3.5, of the Business and Professions Code (5615 et seq.).

(q) "Light Box" or "sign cabinet" means a portable unit that is Incidental to the Display and its message does not flash, is not in motion, and does not change more than once every two minutes.

(r) "Ornamental Vegetation" means lawns, trees, shrubs, flowers, or other Plantings designed primarily to improve the aesthetic appearance of the highway. Inert material specifically placed to highlight the Ornamental Vegetation is considered part of the Ornamental Vegetation.

(s) "Office of Outdoor Advertising" means that unit of the Department which is delegated by the Director the responsibility of enforcing the Act and these regulations.

(t) "Penalty Fee" means a fee charged for late renewal of a license or a permit.

(u) "Permittee" means the applicant or a subsequent designee on record with the Department as owner of the outdoor advertising permit to place and maintain a specific Display.

(v) "Planting" means the placing or putting into the ground of any vegetation or seeds of vegetation; to set or sow with seeds or plants.

(w) "State Law" means only statutes enacted by the State Legislature, initiative process, or state constitutional provisions.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5200, 5202, 5216, 5250, 5440 and 5485, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Renumbering of former section 2242 to section 2243 and new section 2242 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Amendment of subsection (h) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2243. On-Premise Display.

On-premise Display is defined under Sections 5272, 5405(b), 5405(c), and 5442 of the Act. A Display consisting of the following is outdoor advertising and not an on-premise Display:

(a) A Display which advertises directions to, or the sale or lease of the property on which it is located, but which also advertises any product, service, or business activity unrelated to the sale or lease of the property on which the Display is located.

(b) A Display which advertises activities conducted on the property on which the Display is located, but which also advertises other activities not conducted on the property on which the Display is located.

(c) A Display which advertises a brand name, trade name, product or service only incidental to the principal activity conducted on the property, or from which the business or property owner derives rental income.

(d) A Display placed at or near the end of a narrow strip of property, which is contiguous to the property on which the advertised activity is conducted.

(e) A Display which solely advertises the sale or lease of the property upon which it is placed, but which also identifies a corporation or business activity as the property owner more conspicuously than the for sale or lease message.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273, 5274, 5405(b), 5405(c) and 5442, Business and Professions Code; and 23 CFR Section 750.709.

HISTORY

1. Renumbering and amendment of former section 2242 to new section 2243 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of first paragraph filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2244. On-Premise Display Within a Redevelopment Project.

The applicant for an advertising display to be constructed pursuant to Sections 5273, 5273.5 or 5274 of the Act shall accurately complete and submit the Outdoor Advertising Structure Permit/Application, Form ODA-002 which is incorporated by reference, with a Redevelopment project boundaries map, application, permit fees and a Certification in writing by the Redevelopment Agency that the display is in the boundary area of a redevelopment agency project and will only advertise businesses and activities within the project where the advertising display is placed. The Redevelopment Agency shall provide the Department with a list of all qualifying businesses and activities in the specified project area. It shall be the obligation of the advertising display owner to demonstrate that any business or activity advertised meets the standards of the Act if it is not included on the list of qualifying businesses and activities provided by the Redevelopment Agency. After certifying the display meets the criteria of sections 5273, 5273.5 or 5274, it shall be considered an on-premise display and no permit will issue. The applicant will pay a processing review fee equal to the current amount of a permit application fee.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5273 and 5273.5, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of section and NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2245. Extension of Time Limit for an On-Premise Display Within a Redevelopment Project.

A Display is considered on-premise within a redevelopment project for a period of 10 years or the completion of the project, whichever first occurs, unless an arrangement is made between the redevelopment agency and the Department to extend the period for good cause.

(a) The Department provides written notice to the redevelopment agency governing the project and a copy to the Permittee if different, that the time limitation is expiring, after which Sections 5272 and 5405 of the Act apply.

(b) The redevelopment agency may request the Department to extend the time limit for a Display to be considered on-premise within a redevelopment project. The request must be in writing and made before the 10-year period expires or within 30 days of the Department's notice, whichever is later. The written request must also identify the good cause for extension and the estimated project completion date.

(c) The Department provides a written response within 30 days of receiving the request for extension from the redevelopment agency.

(d) If an extension is not arranged, the Display must meet the requirements of Sections 5272 and 5405 of the Act, or a new permit must be obtained. If the Display does not meet one of those requirements, the Display must be removed or is subject to the violation, penalty and removal provisions of the Act and these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273, 5405 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (d) and amendment of NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2246. On-Premise Display Within a Business Center.

For the purpose of administering Section 5274 of the Act, a Display deemed an on-premise Display within a business center continues regardless of any of the following occurrences:

(a) The creation or construction, in or about the project, of a common parking area, driveway, thruway, alley, passway, public or private street, roadway, overpass, divider, connector, or easement intended for ingress or egress, regardless of where or when created or constructed, and whether or not created or constructed by the project developer or its successor, or by reason of government regulation or condition.

(b) The sale, transfer, conveyance of an individual lot, parcel, or parcels less than the whole, within the development project.

(c) The sale, transfer, conveyance, or change of name or identification of a business within the development project.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5274 and 5490(g), Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2250. Location.

NOTE: — §§ 2250 to 2258, inclusive, issued under authority contained in Section 5215, Business and Professions Code. Source of §§ 2250 to 2258, inclusive, is the Rules and Regulations made by the Director of the Department of Transportation, Outdoor Advertising Act.

HISTORY

1. Original publication of Chapter 6 on 3-22-45 (Title 4). Revision filed 9-18-47 (Register No. 9).
2. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
3. Amendment of NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2251. Prohibited Words or Phrases.

A Display containing any of the following copy is prohibited:

(a) The imitation, simulation or use of official U.S., U.S. Interstate, State or County highway signs or shields.

(b) Prohibited words: A word or combination of words that is construed as a command to traffic or as an official traffic sign is prohibited.

NOTE: Authority cited: Section 5250, Business and Professions Code. Reference: Section 5403(b), Business and Professions Code.

HISTORY

1. New section filed 2-21-63; effective thirtieth day thereafter (Register 63, No. 3).
2. Amendment filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
3. Editorial correction of Authority cite (Register 95, No. 8).
4. Amendment of section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2252. Advertising Displays Simulating Official Directional Signs.

NOTE: Additional authority cited: Sections 5200 to 5325, Business and Professions Code.

HISTORY

1. New section filed 2-21-63; effective thirtieth day thereafter (Register 63, No. 3).
2. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2255. Illuminated Displays (Other Than Displays Containing Reflecting Elements).**HISTORY**

1. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2260. Displays Containing Reflector Units or Reflecting Elements.

NOTE: Additional authority cited: Sections 5200 to 5325, Business and Professions Code.

HISTORY

1. Amendment filed 2-21-63; effective thirtieth day thereafter (Register 63, No. 3).
2. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2265. General.

NOTE: Authority cited: Sections 14001, 14007, 14008 and 14010, Government Code, and Sections 20 and 50, Streets and Highways Code.

HISTORY

1. Amendment filed 8-7-73 as procedural and organizational; effective upon filing (Register 73, No. 32).
2. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2266. Enforcement.

NOTE: Authority cited: Sections 5250, 5251 and 5415, Business and Professions Code.

HISTORY

1. Amendment filed 8-7-73 as procedural and organizational; effective upon filing (Register 73, No. 32).
2. Repealer of NOTE and new NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2267. Prior Orders Repealed.**HISTORY**

1. Repealer filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2270. Customary Maintenance.

"Customary maintenance" means any activity performed on a Display for the purpose of actively maintaining the Display in its existing approved physical configuration and size dimensions at the specific location approved on the application for State Outdoor Advertising Permit, or at the specific location officially recorded in the records of the Department for a legally placed Display, for the duration of its normal life.

(a) Customary maintenance includes the following activities:

- (1) Changing of the advertising message.
- (2) Adding an Extension to an outside dimension of a Display as incident to the copy for a temporary period up to three years.
- (3) The sale, lease, or transfer of the Display or its Permit.
- (4) Adding a Light Box.

(b) Customary does not include the following (all of which acts are considered as a "placing" of a new advertising Display):

- (1) Raising the height of the Display from ground level.
- (2) Relocating all or a portion of a Display.
- (3) Adding a back-up Facing to a single Facing Display.
- (4) Increasing any dimension of a Facing except as permitted by Section 2270(a)(2).
- (5) Turning the direction of a Facing.
- (6) Adding illumination or a Changeable message, including, but not limited to, "tri-vision" signs, with the exception of a light box.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5415, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Amendment filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Amendment of subsection (b)(6) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2271. Destroyed Display.

(a) A Display is destroyed and not eligible for customary maintenance when for 60 days after notice from the Department, it remains damaged and is not used for the purpose of outdoor advertising in the configuration (size, Facings, location, structure) approved by the Department.

(b) When the Department becomes aware of or identifies a damaged Display, the Department mails a written notice by certified mail to the Permittee beginning the 60-day time period for the Permittee to refurbish, replace, rebuild, or re-erect in kind or smaller the damaged Display and to place advertising copy. An "available for lease" or similar message that identifies the advertising availability of the Display on which the message is placed is advertising copy as long as the message contains a valid telephone number or address to contact for information, if the display has been otherwise refurbished, replaced, rebuilt, or re-erected in kind. Refurbishing, replacing, rebuilding or re-erecting shall be to the

approved characteristics as recorded in the department's records for the Display. This notice is not necessary if the Permittee has completed repair back to the approved characteristics prior to notice being issued by the Department.

(c) The Permittee has until the end of the 60-day time period identified in the Department's notice to repair, replace, rebuild, or re-erect in kind the damaged nonconforming Display and place advertising copy. Upon receiving written notice from the Permittee showing good cause prior to the 60th or last day of the time period, the Department may extend the established time period not to exceed a total of six months. In such case, the Department shall issue a written response identifying by what date the work must be completed.

(d) When the Display is not restored and advertising is not placed before the last day of established time period, the Display's customary maintenance is ended and the Display is deemed destroyed. When the Display is deemed destroyed, the permit is revoked, subject to appeal and the remains of the Display are subject to removal under the violation process in Chapter 3.6, commencing with section 2440 in Title 4 of the California Code of Regulations. After the permit is revoked, a permit may not be issued for the location unless the Display conforms to all laws and regulations in effect at the time of application. The last Permittee is responsible for the removal of all remnants of the destroyed Display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5225 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Amendment of section heading and subsections (a)-(b) and (d) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2272. Abandoned Display.

(a) A Display is abandoned when it ceases to exhibit current advertising copy or the Display is removed. An "available for lease" or similar message that identifies the advertising availability of the Display on which the message is placed is considered advertising copy as long as the message contains a valid telephone number or address to contact for information.

(b) The Department shall send a written notice, by certified mail, to the Permittee of a Display that has been removed requiring the Permittee to replace the removed Display within sixty (60) days of the date of the Department's notice.

(c) The Department shall send a written notice, by certified mail, to the Permittee of a Display which has ceased to exhibit current advertising copy requiring the Permittee to place advertising copy on the Display within sixty (60) days of the date of the Department's notice.

(d) If the Permittee fails to comply with sections (b) or (c) of this regulation the permit shall be revoked, subject to appeal, and no new permit may be issued for this location unless it conforms to the laws and regulations in effect at the time of application. The last Permittee is responsible for the removal of all remnants of the abandoned Display.

(e) Any permittee served with a notice of revocation may appeal this determination to the Director pursuant to Section 2241(b) of these Regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5415 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Amendment of section heading and section filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

Chapter 2. Outdoor Advertising on Protected Bonus Segments of Interstate Highways

§ 2300. Scope.

The standards for regulating outdoor advertising on protected bonus segments of an interstate highway are specified in Title 23, Code of Federal Regulations (CFR), Chapter 1, commencing with Part 750.101, and by this reference are incorporated in these regulations as if fully stated herein. Any future amendments to the above-referenced federal bonus segment regulations will be deemed part of these regulations on its effective date.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5251, Business and Professions Code.

HISTORY

1. Repealer of subchapter 2 (Sections 2300-2307, inclusive) and new subchapter 2 (Sections 2300-2308, inclusive) filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34). For prior history, see Register 73, No. 32.
2. Repeater of NOTE and new NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repeater and new section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Amendment filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2301. Definitions.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2302. Measurements of Distance.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2303. Signs Not Permitted in Protected Areas.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2304. Signs Permitted in Protected Areas.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2305. Class 3 and 4 Signs Within Informational Sites.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2306. Class 3 and 4 Signs Outside Informational Sites.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2307. General Provisions.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2308. Exclusions.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

Chapter 3. Measurements for Placing an Outdoor Advertising Display Along an Interstate or a Primary Highway

§ 2400. Scope.

The provisions of this chapter apply to the measurements for placing a Display visible from an interstate or a primary highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5205 and 5408, Business and Professions Code; 23 USC Section 131(d); 23 CFR 750.102(c)(3); 23 CFR 750.706; and 23 CFR 750.707.

HISTORY

1. New Subchapter 3 (§§ 2400 through 2405) filed 3-26-71; effective thirtieth day thereafter (Register 71, No. 13).
2. Amendment filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).

3. Amendment of chapter heading, section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

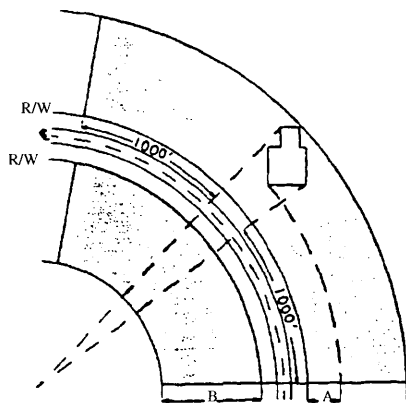
§ 2401. Measurement of Distances from a Commercial or Industrial Activity.

(a) A Display is placed in a business area when the Display is on property zoned as commercial or industrial by the local zoning authority and is within 1,000 feet of a commercial or industrial activity.

(b) To determine if a Display is within 1,000 feet of a commercial or industrial activity, measurement is made "in each direction". Measurement of distance to a Display is made along or parallel to the edge of the pavement of the main-traveled way from the outer edge of a commercial or industrial activity. The display also is within 1,000 feet when measuring the summation of the distance of "A" and "B". Refer to Diagram 3-1, Figures 1 and 2.

DIAGRAM 3-1

Figure 1



(c) An "activity" is located within 1,000 feet of the right of way and includes all buildings, structures, and related commercial and industrial uses, such as a driveway or a parking lot.

(d) Examples of activities not considered commercial or industrial include, but are not limited to, the following:

- (1) A Display.
- (2) Agricultural, forestry, grazing, farming and related activities, including, but not limited to wayside fresh produce stand vending.
- (3) A commercial or industrial activity that is unbuilt, transient, temporary, or open for less than 100 days a year.
- (4) Railroad tracks.
- (5) An activity conducted in a building principally used as a residence.
- (6) Any activity that does not have state or local business licenses and/or permits which are required to legally engage in the qualifying activity.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5205, 5223 and 5408, Business and Professions Code; 23 CFR Section 750.708; and 23 USC Section 131.

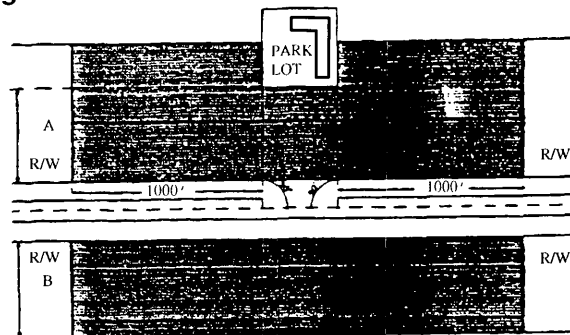
HISTORY

1. Amendment filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
2. Repealer of former section 2401 and renumbering of former section 2402 to section 2401, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
3. New subsection (d)(6) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2402. Measuring Distances Between Advertising Displays.

The minimum distance between Displays is measured along the near-

Figure 1



est edge of the pavement between points directly opposite the portion of each Display closest to the right of way. Where the copy panel is parallel to the right of way, measurement shall be made from the edge of the structure closest to the nearest Display. For multiple Displays to be considered one Display for measurement purposes, the Displays are either: contiguous; physically connected by the same structure or cross-bracing; or located fifteen feet or less apart at the nearest point in the case of a V-type or a back-to-back Display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code; and 23 CFR Section 750.706.

HISTORY

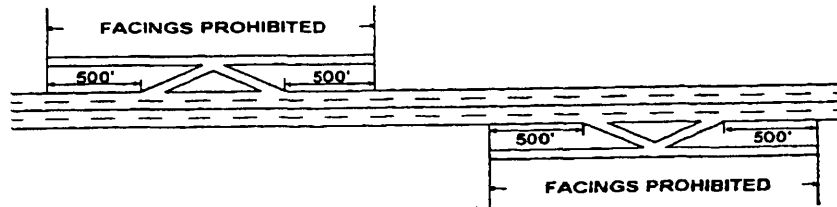
1. Amendment of subsection (b) filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
2. Renumbering of former section 2402 to section 2401 and renumbering of former section 2403 to section 2402, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2403. Measuring Distances from an Intersection or an Interchange.

(a) An intersection is a system of two or more interconnecting highways without a grade separation providing for the exchange of traffic. Only a road, a street, or a highway which enters directly into the main-traveled way of an interstate or a primary highway is regarded as intersecting. An alley, undeveloped right of way other than an interstate or a primary highway, a private road, and a driveway is not regarded as an intersecting street, a road, or a highway. Refer to Diagram 3-2, Figure 1, for an example of measuring from an intersection.

DIAGRAM 3-2

Figure 1



(b) An interchange is a system of two or more interconnecting highways in combination with a grade separation providing for the exchange of traffic. A grade separation is where one highway is over or under another highway. The interchange includes a highway overcrossing, a highway undercrossing, a roadway, a taper, or a ramp, providing for the exchange of traffic. Refer to Diagram 3-3, Figures 1 through 6 for examples of measuring from an interchange.

(c) The distance from an intersection or interchange is measured as follows:

(1) Where no exit or entrance roadway exists, measure the distance from the edge of the highway structure at grade separation to the point along the edge of the pavement opposite the closest edge of the Display. Refer to Diagram 3-3, Figures 1, 2, 3, and 5 for examples.

(2) Where there is an off ramp from or an on ramp to the main-traveled way, measure along the edge of the pavement from the beginning or end of a pavement taper to the point where the portion of the Display is closest to a pavement taper. Refer to Diagram 3-4, Figure 1 and Diagram 3-3,

Figures 1 through 6 for examples.

(d) An interchange or an intersection distance limitation is measured separately for each direction of travel. A Display application is approved for a Facing in a conforming location where an interchange or intersection distance prohibition applies to the opposite side of the freeway if the copy is not visible to traffic proceeding in another direction within the interchange or intersection. Refer to Diagram 3-3, Figures 2, 3, 5, 6 and Diagram 3-4, Figure 1 for examples.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. Amendment filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Renumbering of former section 2403 to section 2402 and renumbering of former section 2404 to section 2403, including amendment of section heading, section and NOTE and new diagrams 3-3 and 3-4, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

DIAGRAM 3-3

Figure 1

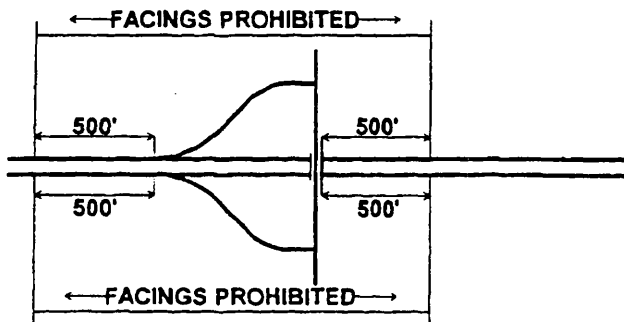


Figure 2

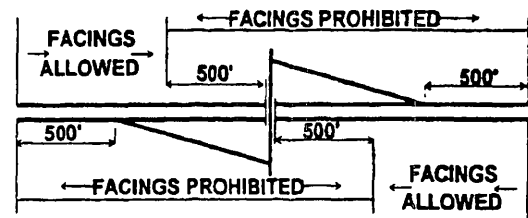


Figure 3

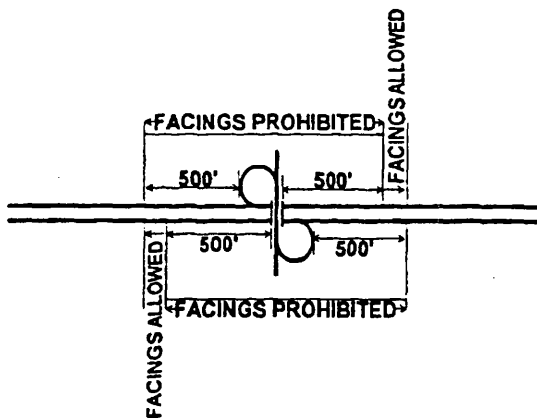


Figure 4

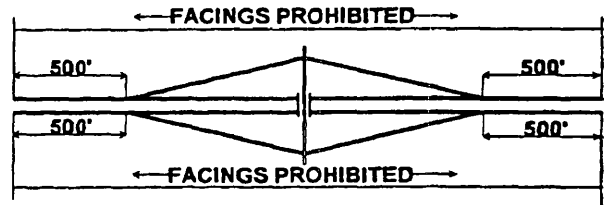


Figure 5

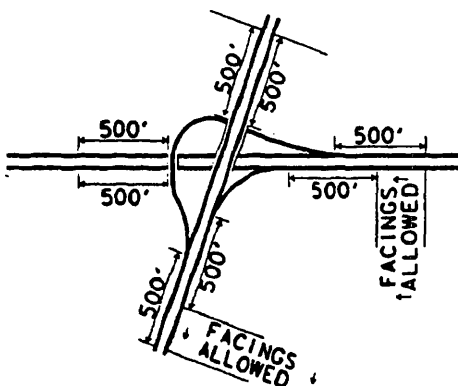


Figure 6

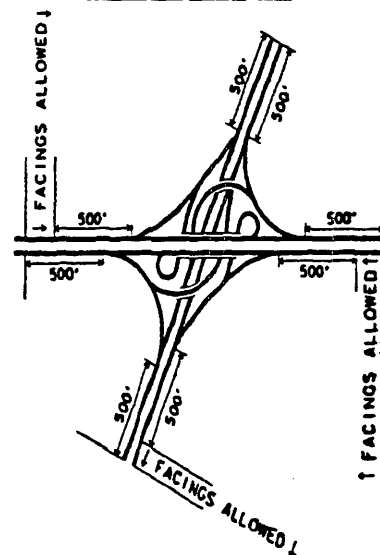
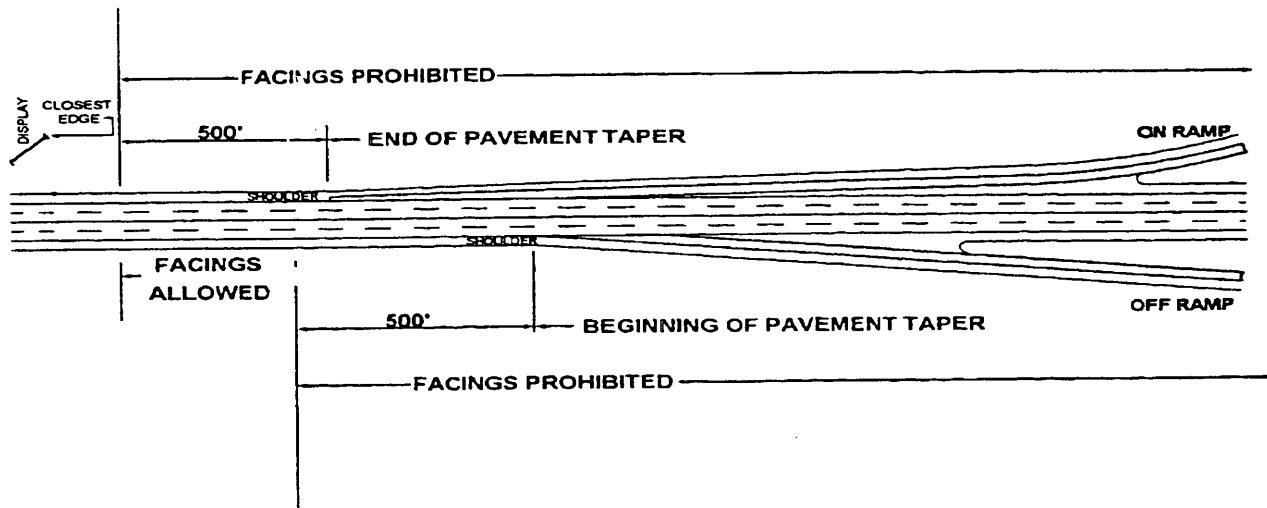


DIAGRAM 3-4

Figure 1



§ 2404. Measuring Distances from the Edge of the Right of Way.

The highway right of way includes all property acquired for the free-way including, but not limited to, the main traveled way, an interchange, a ramp, and interconnecting roadway. The 660' -foot control corridor is determined by measuring 660' feet from the edge of the right of way along a line perpendicular to the center line of the main-traveled way.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. Renumbering of former section 2404 to section 2403 and renumbering of former section 2405 to section 2404, including amendment of section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2405. Measuring Distances from the Edge of the Right of Way.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Renumbering of former section 2405 to section 2404 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

Chapter 3.5. Application, Permit, and License Administration for Outdoor Advertising

§ 2420. Scope.

The purpose of this Chapter is to define the process for applying, qualifying, and retaining an outdoor advertising permit and license. No Display can be placed legally until after a permit and any required license are issued or renewed. The Permittee is presumed to own the Display unless the Department is notified otherwise.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301 and 5351, Business and Professions Code.

HISTORY

1. New chapter 3.5 (sections 2420-2426) and section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2421. Preliminary Determination Application Process.

An application for a preliminary determination is submitted to the Department, with the applicable fee, when an applicant wants advance determination whether a location qualifies for a permit or what additional qualifications are required to obtain a permit. The permit application process is separate from this process. A preliminary determination application does not hold a location or restrict another person from obtaining a permit within spacing of the location for which a preliminary determination is made.

(a) The applicant shall, in accordance with the Act:

(1) Accurately complete and sign the Outdoor Advertising Structure Permit/Application, Form ODA-0002 (Rev. 11/98).

(2) Submit the completed application and fees to the Department at the address specified on the application.

(3) Place an Imprint at the proposed Display location.

(b) The Department shall, in accordance with the Act:

(1) Pre-review the application for completeness.

(2) Review the application on the basis of its eligibility as of the date processed

(3) Issue dated response of preliminary determination to the applicant.

(c) The applicant may submit an application and fees for a permit for the same location within one year of Department's preliminary determination. If this occurs:

(1) The applicant will be credited with a partial fee as provided by Section 5486 of the Act.

(2) The permit application will be reviewed pursuant to the Act and regulations in effect on the date the permit application is received.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5252 and 5486, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2422. Permit Application Process.

(a) The applicant shall, in accordance with the Act:

(1) Accurately complete and sign the Outdoor Advertising Structure Permit/Application, Form ODA-0002 (Rev. 11/98).

(2) Submit the completed application and fees to the Department at the address specified on the application.

(3) Place and maintain an Imprint at the proposed Display location.

(4) Provide written evidence that the owner or other person in control or possession of the property and the city and county with land use juris-

diction over the property have consented to the placing of the advertising display. Evidence of property owner consent shall be a form of a copy of a lease, license or other land use agreement or another form of written acknowledgement from the owner that such consent has been given. The economic terms of any such agreement need not be included. The consent of the city or county shall be demonstrated by producing a copy of the applicable building or sign permit, or other official act of the city and county used in that jurisdiction to authorize construction, or to demonstrate that the city or county requires no specific consent to construct an advertising display.

(5) Correct any application deficiencies, pursuant to notification as required by (b)(3) within 30 days. The applicant may request an extension of the 30-day time period. The request must be in writing.

(b) The Department shall, in accordance with the Act:

(1) Date and time stamp the application on the date and in the order received by the Office of Outdoor Advertising.

(2) Review the application on the basis of its qualifications as of the date received (For example, the required business activity and zoning must exist on the date the application is received). The application is processed in accordance with the following subsections (A) through (G).

(A) First priority is given to renewing a permit for a legal Display (constructed or not constructed).

(B) An application for a legally placed Display that did not previously require a permit is processed before an application for a new Display.

(C) An application to place a new Display along an existing highway is processed in the order received.

(D) An application for placing a new Display along an existing highway where the copy will be visible from a new alignment of an interstate or a primary highway and the location is nonconforming to the new alignment is not accepted after Certificate of Sufficiency is executed.

(E) An application for placing a new Display along a new alignment of an interstate or primary highway is accepted on or after the date the highway project is Accepted.

(F) An application to relocate an existing permitted Display to accommodate widening or extensive modification of an interstate or a primary highway is processed before an application to place a new Display.

(G) An application for a new Display received after a Certificate of Sufficiency is executed for widening or extensive modification of an interstate or a primary highway is not processed until the orderly relocation of an existing Display is completed, as coordinated by the Department. The Department issues a notice to the applicant when processing is delayed for this reason. The processing time begins after the orderly relocation of an existing Display is completed.

(3) Provide a written 30-day deficiency notice to the applicant when it is determined there is a deficiency, such as the Imprint is missing or information on the application is missing, is in error, or conflicts with findings. Failure to correct the deficiency within the time allowed results in denial of the application.

(4) Provide a final decision issuing a legal permit or denying permit issuance identifying the noncompliance with law. The permit or denial notice is issued within 60 days from the date the application is received, excluding the time periods for which notices were issued under subsection (b)(3).

(5) Reserve a location for ninety (90) days in accordance with Section 5354(b) and (c) of the act, if a written request from the city or county with land use jurisdiction over the proposed location is received in lieu of a building or sign permit, properly acknowledged by the City Council or Board of Supervisors or their official designee. The description of the proposed location in the city or county's notice shall be consistent with the location requested on the permit application. If a city or county requests an additional thirty (30) day hold on a location in accordance with section 5354(c), in addition to the requirements for an initial 90 day hold specified above, the city and county must detail the extenuating circumstances meriting an additional 30 days. Examples of such extenuating circumstances include, but are not limited to, an inability to properly notice a necessary hearing within the initial 90 days, the unavailability of a nec-

essary witness or property owner, the discovery of newly found evidence or facts, or the late objection of an affected property owner.

(c) An Application whose permit application is denied may appeal that determination in accordance with the provisions of Section 2241(b) of these Regulations. Until such appeal is finally determined, no permit shall be issued to any other applicant that would affect the legality of a denied permit application until completion of the appeal.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5252 and 5350-5358, Business and Professions Code; and Section 15376, Government Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. New subsection (a)(4), subsection renumbering, amendment of subsections (b)(2)(D) and (b)(2)(G) and new subsections (b)(5)-(c) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2422.1. Permit Fee.

(a) The annual fee for each advertising display shall be one hundred dollars (\$100.00). The fee shall increase in the 2007-2008 fiscal year and in the 2012-2013 fiscal year by an amount equal to the increase in the California Consumer Price Index.

(b) The 2006 annual permit fee shall be due by December 31, 2005 or thirty days after the effective date of this section, whichever is later.

(c) Permit holders that paid for a renewal term of five years pursuant to Business and Professions Code, Section 5360 at ninety-two dollars (\$92) per year will not be subject to paying this increase until December 31, 2008.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5485(a)(2), Business and Professions Code.

HISTORY

1. New section filed 11-16-2006; operative 12-16-2006 (Register 2006, No. 46).

§ 2423. Permit for Off-Premise Message Center Display.

(a) An application, a permit, and fees are required to place an off-premise message center Display visible to a highway in the areas described in Section 2240(b). This includes converting a permitted Display for use as a message center or converting a permitted message center Display from advertising on-premise activities to off-premise activities.

(b) To qualify for a permit, an off-premise message center Display must meet all the requirements of the Act and these regulations for advertising off-premise activities as well as specific requirements in Section 5405 of the Act related to message center Displays.

(c) The Permittee is responsible for maintaining an off-premise message center Display in compliance with the Act and these regulations, or the Display is subject to the violation process in Chapter 3.6 commencing with section 2240 in Title 4 of the California Code of Regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(d), Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2424. Permit Renewal Process.

(a) A permit must be renewed pursuant to Section 5360 of the Act. The permit renewal process consists of the following:

(1) The Department mails a renewal application for a term of five years to the Permittee at the Permittee's last address on the Department's record at least 30 days before the expiration date.

(2) The Permittee returns the completed Form ODA-0013(A), Application For Outdoor Advertising Permit Renewal 1999-2003 (Rev. 09/99) which is incorporated by reference, and fee to the Department postmarked on or before December 31 of the year in which the permit expires to avoid a penalty. The Permittee would be scheduled to pay as follows:

(A) A Permittee holding 10 or more permits may pay one-fifth of the fee (pro-rata fee) to the Department on an annual basis postmarked each year on or before December 31 to avoid a penalty fee. A Permittee shall be responsible for paying the then current annual fee at the time of each pro-rata payment.

(B) A Permittee holding less than 10 permits must pay the total fee every five years on or before December 31 of the year in which payment

is due to avoid a penalty fee. A Permittee prepaying for five years may be assessed any increase in the annual fees, due by December 31 of the year which payment is due.

(C) The Permittee is responsible for contacting the Department if a renewal application is not received.

(3) A permit is expired and is subject to a mandatory penalty of \$100.00 if the renewal application and fee are received by the Department postmarked after December 31 of the year in which the permit expires or the pro rata payment is due.

(4) The Department shall issue the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations and an unexpired building permit has been issued, if the display has not been constructed. Permits issued prior to December 31, 2002, for Displays that have not been constructed or have not obtained an unexpired building permit, will not be revoked until June 30, 2005, if the applicable city or county confirms that a building permit is being actively considered for the Display. The Department will also review its records to determine there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires. The permit entitles the permittee to place the permitted display for the term of the permit, provided all pro rata fees are timely received.

(5) If the Department fails to issue a permit according to this Chapter and the Act within one year after receiving a complete and valid renewal application and required fees, the permit is considered renewed for the year of the renewal application. An applicant shall provide a certified mail receipt or signed acknowledgment of receipt by a Department representative to invoke this provision. This section does not apply to a permit under review pursuant to Chapter 3.6 commencing with section 2424(C) in Title 4 of the California Code of Regulations or a legal action.

(6) The following occurs when a permit is not renewed in accordance with (a)(1) to (a)(4) of this section:

(A) The Department provides written notice by certified mail to the Permittee at the address on record at least 30 days before the cancellation date indicating the permit is expired, is not in compliance with the Act, or the permit fee or the pro-rata fee is not received. However, the permit may be renewed with a penalty fee.

(B) The Permittee has until December 31 of the first year following the expiration of the permit to return the renewal application, permit fee or pro-rata fee, and penalty fee or notify the Department to cancel the permit because the Display has been removed.

(C) The Department issues the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations. The Department will also review its records to determine if there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires.

(D) When the Permittee fails to comply with subsection (6)(B), the permit is not renewable and the Director shall notify the permittee by certified mail that the permit will be revoked in thirty (30) days. Any permittee served with a notice of revocation may appeal this decision in accordance with the provisions of section 2241(b) of these Regulations.

(7) A permit must be renewed by the end of the first year after expiration or lose eligibility for renewal.

(8) The renewal application for a valid, unrevoked, and unexpired permit shall be mailed when issuance of the permit is pending resolution of a violation notice or a legal action. The Permittee shall continue to comply with the renewal requirements. The permit is issued only when a final decision is made by the Director or by a court of law that does not uphold the violation. Fees will be deposited into the State Highway Account and when appropriate, refunded upon the final decision.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5358, 5360, 5463 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

2. Amendment of subsections (a)(2)(A)-(B), (a)(3)-(4), (a)(6)(D) and (a)(8) and amendment of NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).
3. Change without regulatory effect amending subsection (a)(4) filed 2-28-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 2425. Permit Transfer Process.

(a) The Department will change its records to show a new Permittee for a valid, renewed, and unrevoked permit when one of the following occurs:

(1) The Permittee provides a written transfer notice to the Department that identifies the permit number and the new Permittee's name and business address.

(2) The Permittee returns the renewal application during the renewal period identifying the new Permittee's name and business address.

(3) The Department receives a bill of sale signed by the Permittee that transfers ownership of the permit.

(4) The Department receives documents proving the Permittee is deceased and the Display is transferred. The new Permittee shall provide the information required in subsection (a).

(5) A court order requires or authorizes the transfer.

(b) Any party whose request to have a permit transferred is denied, and any former permit holder whose permit is transferred may appeal the decision in accord with the provisions of Section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code; and 23 CFR Section 750.707(d)(3).

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Redesignation of former first paragraph and subsections (a)-(e) as new subsections (a)-(a)(5) and new subsection (b) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2426. Business Address of Permittee and Licensee.

(a) The Permittee shall maintain on file with the Department one mailing address. If the mailing address contains a P.O. Box, a street address of the Permittee's principal place of business shall also be provided.

(b) The licensee shall maintain on file with the Department one person's name as defined in Section 5219 of the Act and one mailing address. If the mailing address contains a P.O. Box, a street address of the licensee's principal place of business for outdoor advertising activities shall also be provided.

(c) When there is a change in the name, the mailing address, or the street address of the principal place of business, the Permittee or licensee shall notify the Department, in writing, not later than 30 days following the change.

(d) If the Permittee or licensee fails to notify the Department of a change in address, the mailing of any Departmental notice is effective when mailed to the last address on file. When the notice is to revoke a permit or a license, that notice is maintained on record with the Department for one year.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (d) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2427. Permits for Relocated Displays.

No person shall place any advertising display pursuant to a Relocation Agreement without having first secured a Permit. Permits for relocated displays will be issued if the following criteria are met:

(a) the relocation agreement is authorized by law, such as sections 5412, 5443, or 5443.5 of the Act;

(b) the new display complies with sections 5354, 5400-5405, and 5408 of the Act;

(c) the new display will not cause a reduction in the federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code; and

(d) the Department does not assume any potential additional liability if the new display is acquired in the future for a public purpose.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5354, 5400–5405, 5408, 5412, 5443 and 5443.6, Business and Professions Code.

HISTORY

1. New section filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

Chapter 3.6. Violations

§ 2440. Scope.

The purpose of this Chapter is to define the process the Department follows when there is a notice of violation of the Act or these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5460–5465, Business and Professions Code; and 23 U.S.C. 131(r)(1) and (2).

HISTORY

1. New chapter 3.6 (sections 2440–2443) and section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2441. Violations for Permanent Displays.

(a) When the Department determines a permanently placed Display violates the Act or these regulations, the owner of that Display is given a written violation notice by certified mail that the Display is in violation and subject to removal, and the owner is liable for all statutory penalties and, if the Display is removed by the Department, actual costs of removal.

(b) The violation notice states the violation, the owner's responsibility to respond, and the owner's opportunity to request a review by the Director pursuant to the provisions section 2241(b) of these Regulations.

(c) If the display has been issued a permit, the violation notice is issued to the Permittee unless the Department has been notified in writing that another party with a property interest in the Display also has requested notice of any action concerning the Display. When a Permittee differs from the name on the Display, it is assumed the Permittee is the Display owner and the entity named on the Display is only maintaining it, unless the Department has been notified otherwise. When the owner of the Display is not plainly displayed thereon and no permit exists, the violation notice shall be issued to either the property owner at the address on record with the county assessor's office or the advertiser identified on the Display.

(d) A new violation notice is not issued if the Display is sold, transferred, or the copy is changed. When purchasing a Display, the new Display owner is responsible for determining the legal status of the Display by contacting the Office of Outdoor Advertising.

(e) The owner has 30 days from the date of the certified mailing of the violation notice to respond as follows:

- (1) Correct the violation, or
- (2) Remove the Display, or

(3) Appeal to the Director in writing pursuant to the provisions of section 2241(b) of these Regulations. This request shall contain a statement of reasons supporting the Appeal pursuant to Section 2442 of these regulations.

(f) The owner's failure to respond to the violation notice within 30 days of the date of its certified mailing results in a waiver of the right to Appeal the following:

- (1) the validity of the violation(s) stated in the violation notice.
- (2) removal of the Display by the Department without further notice at the owner's expense.
- (3) the period of time allowed for correction of any violation.
- (4) the amount of any fine, penalty, or assessed removal costs.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5400, 5463, 5482 and 5485, Business and Professions Code; and 23 U.S.C. Section 131(r)(1) and (2).

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of section and NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2442. Review of Violation Notice.

Any person or entity with a notice of violation pursuant to the Act or these regulations may appeal to the Director in writing pursuant to Section 2241. The cited person or entity may contest any or all of the following aspects of the notice of violation:

- (a) The occurrence of a violation of the Act or these regulation
- (b) The amount of any fine, penalty, or assessed removal costs.
- (c) The removal of the advertising display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5463 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Repealer and new section filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2443. Causes for Revocation of an Outdoor Advertising Permit.

(a) Causes for Revocation of an Outdoor Advertising Permit pursuant to Section 5463 of the Act and Chapter 3.6 commencing with section 2441 of these regulations exists when any one of the following occurs:

- (1) The Permittee fails to renew a permit in accordance with the Act and these regulations.
- (2) The Permittee fails to maintain an outdoor advertising license when required.

(3) The permitted Display is not in place, no physical construction has begun, and placement of the Display would result in nonconformance. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, the appropriate city or county has sent the Department the notice provided for in section 5354(b) of the Act and the Display is constructed before the local building permit expires, including any extensions to the building permit not to exceed six months.

(4) The property owner's consent is canceled.

(5) The Display is determined to be abandoned or destroyed.

(6) A violation of the Act or these regulations is not corrected within the time provided in the violation notice (including any modification of the time allowed after Appeal) or by court order.

(b) Any permittee served with a notice of revocation may appeal this decision pursuant to the provisions of section 2241(b) of these Regulations, unless the permittee has previously appealed a violation notice based on the same facts.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301, 5302, 5354, 5360, 5440, 5463, 5484 and 5485, Business and Professions Code; 23 U.S.C. Section 131(r)(1) and (2); and 23 C.F.R. 750.707.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Redesignation of former first paragraph and subsections (a)–(f) as new subsections (a)–(a)(6), new subsection (f) and amendment of newly designated subsections (a)(3) and (a)(6) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2444. Causes for Revocation of an Outdoor Advertising License.

(a) Causes for revocation of an Outdoor Advertising License pursuant to Section 5463 of the Act exists when one of the following occurs:

(1) Licensee fails to pay his annual License Fee. Before a License is revoked pursuant to this section, a Licensee shall be given written notice by certified mail that the license fees have not been received, and if payment is received within thirty days of the date of the notice the license will be renewed.

(2) The Licensee fails to timely pay fines, penalties or assessed removal costs. Before a License is revoked pursuant to this section, a License shall be given written notice by certified mail that the payment for the fine, penalty or assessed removal costs have not been received, and if

payment is received within thirty days of the date of notice, the license will not be revoked.

(3) A Licensee who has received three notices of violations for placing a Display without first obtaining a permit pursuant to Section 5463 of the Act within any twenty-four month period which have either not been appealed or have been upheld by the Director pursuant to Section 2242 and not been corrected, unless the matter is still pending in State court.

(4) A Licensee who has damaged two or more trees or shrubs in violation of Streets and Highways Section 730.5 in any two-year period and not made restitution provided for by Streets and Highways Code section 730.5.

(b) Upon the revocation of an Outdoor Advertising License, all permits issued to that Licensee shall be revoked after thirty (30) days' written notice unless they are transferred within one year of the date of license revocation to another Licensee or person not affiliated in any manner with the Licensee whose License was cancelled. After a License has been revoked, that Licensee may apply for a new License after two years if all previous violations have been corrected.

(c) Any Licensee served with a notice or revocation may appeal this determination to the Director pursuant to the provisions of section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301 and 5463, Business and Professions Code.

HISTORY

1. New section filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

Chapter 4. Directional and Other Official Signs and Notices

§ 2450. Scope.

(a) Except as noted below, the standards for regulating directional and other official signs and notices are specified in Title 23, Code of Federal Regulations (CFR), sections 750.151, 750.152, 750.153, 750.154, 750.155, National Standards for Directional and Official Signs, in effect April 1, 1998 and by this reference are incorporated in these regulations.

(b) The provisions of this chapter are in addition to the standards referred to in subsection (a) and apply to directional and other official signs and notices placed pursuant to the provisions of Section 5405 of the Business and Professions Code and located within 660 feet of the nearest edge of the right of way of an Interstate or a Federal-aid primary highway, and visible from the main-traveled way of the highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(a), Business and Professions Code; and 23 CFR Sections 750.151, 750.152, 750.153, 750.154 and 750.155.

HISTORY

1. New Subchapter 4 (§§ 2450 through 2456) filed 3-26-71; effective thirtieth day thereafter (Register 71, No. 13).

2. Amendment of section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2451. Placing Directional and Other Official Signs and Notices.

(a) An official sign and notice, a public utility sign, a service club notice or a religious notice may be placed next to an Interstate or a primary highway.

(b) A public or private directional sign, that is in compliance with the provisions of Title 23, CFR, Chapter 1, Part 750.154, in effect April 1, 1995, may be placed next to interstate or a primary highways except that a sign may not be placed in the following locations:

(1) Adjacent To a landscaped freeway when the sign is designed to be viewed primarily by a person traveling on an Interstate or a primary highway.

(2) Within 2,000 feet of a rest area, a parkland or an officially designated scenic highway or byway area.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5203, 5221, 5440 and 5440.1, Business and Professions Code.

HISTORY

1. Repealer of former section 2451 and renumbering of former section 2452 to section 2451, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2452. Public or Private Directional Sign; Selection Methods and Qualifying Criteria.

(a) Each location for a public or private directional sign must be approved by the Department before placing the directional sign. The Display application and the permit procedures of the Act are used to obtain approval, except application and permit fees are not required for a public or private directional sign expressly excluded from the definition of "Advertising Structure" in Section 5203 or "Sign" in Section 5221 of the Act.

(b) When processing an application to place a public or private directional sign, the following priorities are applied.

(1) First priority is given to a public directional sign.

(2) Second priority is given to a private directional sign. An application for a private directional sign is not processed unless it is accompanied by written confirmation that the activity to be advertised is nationally or regionally known and is of outstanding interest to the traveling public. The confirmation is a letter, resolution, or other official document made by a local public officer, public agency, county board of supervisors, or city council who exercises governmental authority over the area and the sign.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5203 and 5221, Business and Professions Code.

HISTORY

1. Renumbering of former section 2452 to section 2451 and renumbering of former section 2455 to section 2452, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2453. Existing Displays.

A public directional sign and other official sign or notice lawfully in existence on the effective date of these regulations, and which is permitted by city or county ordinance, may be maintained.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(a), Business and Professions Code.

HISTORY

1. Repealer of former section 2453 and renumbering of former section 2456 to section 2453, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2454. Directional Signs: Spacing, Lighting and Message Content.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2455. Selection Methods and Criteria.

NOTE: Authority cited: Sections 14001, 14007, 14008, 14010, Government Code, and Sections 20 and 50, Streets and Highways Code.

HISTORY

1. Amendment of subsections (a) and (b)(3) filed 8-7-73 as procedural and organizational; effective upon filing (Register 73, No. 32).

2. Renumbering of former section 2455 to section 2452 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2456. Existing Displays.

HISTORY

1. Renumbering of former section 2456 to section 2453 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

Chapter 5. Outdoor Advertising Displays Adjacent to Landscaped Freeways

§ 2500. Scope.

The provisions of this chapter apply only to the placing and maintenance of a Displays Adjacent To a landscaped freeway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5200, 5440 and 5442, Business and Professions Code.

HISTORY

1. New Chapter 5 (Sections 2500-2519) filed 8-29-78; effective thirtieth day thereafter (Register 78, No. 35).

2. Amendment of section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2501. Severability.

If any provision, clause, or application of this chapter to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5440 and 5442, Business and Professions Code.

HISTORY

1. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2502. Definitions.**HISTORY**

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2503. Construction of Terms.**HISTORY**

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2504. Classifications Delegation.

The Director delegates to the Chief Landscape Architect the responsibility to classify a landscaped freeway. If the delegation is changed, all references to “Chief Landscape Architect” means whomever is delegated the responsibility of classifying a freeway as a landscaped freeway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5250, Business and Professions Code.

HISTORY

1. Repealer of former section 2504 and renumbering of former section 2507 to section 2504, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2505. Change in Freeway Character—Preliminary Landscape Determination.

(a) Before the award of a Highway Planting Project, the Chief Landscape Architect makes a preliminary landscape determination, based on the project design plans, specifications, and/or concept plans of whether the project will change the character of the freeway to a landscaped freeway. If the preliminary landscape determination is that the project will meet the criteria for being a landscaped freeway and the Highway Planting Project adjacent to existing freeway segments will begin within 180 days or that the Highway Planting Project adjacent to a new segment of freeway will begin within two fiscal years, the Chief Landscape Architect issues a notice of preliminary landscape determination to the Office of Outdoor Advertising and posts that determination on the Landscape Architect’s web page.

(b) The Office of Outdoor Advertising shall not issue a permit for a Display Adjacent To a section of freeway that is designed primarily to be viewed by a person traveling on the landscaped section after a preliminary landscaped determination is made. A Display permit which is issued, but where no physical construction of the Display has begun or exists, confers no vested rights and is canceled no earlier than 180 days after and the Permittee is notified of the action in writing by the Office of Outdoor Advertising. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, and the Display is constructed before the local building permit expires or 180 days whichever occurs first. Only customary maintenance, as described in section 2270 of this chapter may be performed on existing outdoor advertising displays adjacent to a landscaped freeway section.

(c) If the Highway Planting Project does not begin within 180 days after the date the preliminary landscape determination along an existing segment of freeway is made or within two fiscal years along a new segment of freeway, the determination lapses. The Chief Landscape Architect shall post a notice within 30 days of the lapsed preliminary landscape determination on the Landscape Architect’s web page and send notice to the Office of Outdoor Advertising.

(d) After the Office Outdoor Advertising is notified of the preliminary landscape determination lapse, a permit for a Display shall be issued if the Display meets the provisions of the Act and these regulations.

(e) A preliminary landscape determination lapse may not prevent a future determination that the same or similar proposed Planting meets the landscaped criteria.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2505 and renumbering of former section 2509 to section 2505, including amendment of section heading and section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsections (a) and (c) and amendment of NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2506. Classification Occurs When Planting Accepted.

A freeway is classified as a landscaped freeway when the Highway Planting Project is Completed and Accepted.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2506 and renumbering of former section 2510 to section 2506, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2507. Landscaped Freeway—Minimum Length.

(a) To be classified as a landscaped freeway, a Continuous Planting segment measured parallel from the freeway centerline is at least 1,000 feet in length. For purposes of these regulations, the 1,000-foot length is calculated by either of the following:

(1) 1,000 linear feet of Continuous Planting on one side or the median of the freeway, or

(2) 1,000 linear feet of landscaped area which is the combination of Continuous Planting on both sides and/or the median of the freeway. Continuous Planting can either overlap or have a common point of beginning and ending, as measured along the freeway centerline.

(b) If a Continuous Planting segment as described above is followed by a gap of 200 feet or less and adjoins Continuous Planting which is at least 500 feet in length, the designation “landscaped freeway” applies to the total length of the Continuous Planting segment, the “gap”, and the Continuous Planting.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Renumbering of former section 2507 to section 2504 and renumbering of former section 2511 to section 2507, including amendment of section and NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsections (a)(1)–(2) and repealer of subsection (c) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2508. Change in Freeway Character—Criteria and Inspection.

(a) A freeway may not be classified as a landscaped freeway until a licensed Landscape Architect employed by the Department and based on personal inspection of the Highway Planting Project, certifies in writing that the character of the freeway is changed to a landscaped freeway. The freeway character is changed to a landscaped freeway when Ornamental Vegetation is in place, is at least 1,000 feet in length, is alive, exhibits healthy growth characteristics, and the Highway Planting Project is Accepted by the Department.

(b) The Planting will require reasonable maintenance. That means a plant which, when planted, requires maintenance on a regular basis to maintain it in a healthy and attractive condition. The fact that as a plant matures it may require less maintenance than when first planted is not interpreted to mean it does not require reasonable maintenance. As used herein, maintenance means any of the following: watering, fertilizing, spraying, cultivating, pruning, cutting, mowing, replacing, weed control, washing, pest control, disease control, litter removal, or other similar plant care procedures.

(c) Functional planting does not change the character of the freeway to a landscaped freeway. Functional planting means vegetation primarily

for soil erosion control, traffic safety, reduction of fire hazards, and traffic noise abatement or other non-ornamental purposes. A single row of plantings in the median shall be considered a functional planting.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2508 and renumbering of former section 2512 to section 2508, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (c) and amendment of NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2509. Landscaped Freeway Classification.

The Chief Landscape Architect classifies the freeway as a landscaped freeway when a review of the Landscape Architect's certification and the Planting plans and specifications indicate the highway Planting meets the criteria of the Act and this Chapter.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2509 to section 2505 and renumbering of former section 2513 to section 2509, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2510. Records.

The Chief Landscape Architect shall maintain, as a public record, a register of the county, route and post mile or kilometer post of the freeways or sections of freeways classified as a landscaped freeway by the Department. Identification markers may be placed and maintained by the Department at the boundaries of a landscaped freeway section.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2510 to section 2506 and renumbering of former section 2514 to section 2510, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2511. Retention of Classification.

A landscaped freeway retains its classification:

(a) When a construction project results in the temporary removal of the plant material. If the plant material is not replaced within six months after the Department Accepts the construction project, the Chief Landscape Architect shall review the classification upon the receipt of a written request. No review shall be made until six months after the Department accepts the construction contract. If the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within two fiscal years of the date of the request for review, the section is declassified, or,

(b) When a catastrophic event, such as a disease, pests, freeze or fire kills over 50% of the plantings in a segment, or over 3000 trees or shrubs of the same variety within a three year period throughout the state. In the case of such a catastrophic event, the Chief Landscape Architect shall review the classification upon receipt of a written request. The section will be declassified unless a concept plan to replace the plantings is adopted within two years after the conclusion of the catastrophic event or if the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within six fiscal years of the date of the request for review.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. New final paragraph and new NOTE filed 7-25-96 as an emergency; operative 7-25-96 (Register 96, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-22-96 or emergency language will be repealed by operation of law on the following day.
2. Reinstatement of section as it existed prior to 7-25-96 emergency amendment by operation of Government Code section 11346.1(f) (Register 97, No. 37).
3. New final paragraph and new NOTE filed 9-11-97; operative 10-11-97 (Register 97, No. 37).
4. Renumbering of former section 2511 to section 2507 and renumbering of former section 2515 to section 2511, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

5. Repealer and new section heading and amendment of section filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2512. Request for Reclassification.

A person may make a written request to the Chief Landscape Architect, to classify a freeway or a section of freeway as a landscaped freeway, or to declassify a freeway or section of freeway classified as a landscaped freeway.

(a) The request (1) shall be in writing; (2) shall be signed and dated; (3) shall identify the section of freeway by county, route and post mile or kilometer post; and (4) shall contain a detailed statement of reasons supporting the proposed freeway classification or declassification.

(b) Within 60 days after receiving the written request, a Landscape Architect shall inspect the freeway or section of freeway covered by the request. All findings made during this inspection are presented to the Chief Landscape Architect, who shall determine whether to reclassify the freeway section. The determination of whether to reclassify is based upon whether the freeway section meets the criteria of the Act and these regulations on the date of determination. A field review need not be made if a review has taken place within two years of the date of the request, unless the request specifies major changes have occurred within the two years preceding the request.

(c) Within 90 days after receiving a request for reclassification, the person making the request is notified in writing by the Chief Landscape Architect of the determination and the reasons therefore. If the request is not granted, the person making the request may appeal this determination to the Deputy Director Project Development pursuant to the provisions of section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2512 to section 2508 and renumbering of former section 2516 to section 2512, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (c) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2513. Displays Viewed Primarily from Landscaped Freeways.

If a section of freeway is classified as a landscaped freeway, the Department determines if there is a Display Adjacent To that section of freeway which is designed to be viewed primarily by a person traveling on the landscaped section of a freeway.

(a) A Display is designed to be viewed primarily from a landscaped freeway section when the Display is within the limits of a landscaped freeway and its copy is legible to motorists from within the landscaped segment.

(b) All determinations are made in the present. The fact the Display may have been designed primarily to be viewed from another roadway at some point in the past is not determinative.

(c) Notwithstanding subsection (a) above, if a Display's copy is legible from both a landscaped freeway and another freeway or highway, a rebuttable presumption is established that the Display is designed primarily to be viewed from the freeway or highway with the highest daily traffic count. This presumption may be rebutted by use of the following criteria:

- (1) Traffic Count. Comparing the difference between the average daily traffic count for the landscaped freeway and the other freeway or highway.
- (2) Angle. The angle of placement of the Display.
- (3) Visual Approach Distance. The distance the Display is legible measured along each freeway or highway it is visible from.
- (4) Height. Whether the Display's height makes the Display legible to more motorists on one freeway or highway or legible to motorists for a longer period of time on one freeway or highway.
- (5) Relative Size. The prominence the Display has from each freeway or highway.

(6) Copy. Does the advertising message, or have past advertising messages, give specific directions for persons on only one freeway or highway.

(7) Owner's Representations. Has the Display been represented by the owner to be viewed primarily by persons traveling on one freeway or highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Renumbering of former section 2513 to section 2509 and renumbering of former section 2517 to section 2513, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (c) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2514. Records.

HISTORY

1. Renumbering of former section 2514 to section 2510 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2515. Temporary Removal of Plant Material.

HISTORY

1. Renumbering of former section 2515 to section 2511 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2516. Request for Reclassification.

HISTORY

1. Renumbering of former section 2516 to section 2512 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2517. Displays Viewed Primarily from Landscaped Freeways.

HISTORY

1. Renumbering of former section 2517 to section 2513 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2518. Notice to Remove Display.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2519. Review of Violation.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

Division 7. Secretary of State

Chapter 1. Trade-Marks

(Originally Printed 3-22-45)

HISTORY

1. Repealer of Chapter 7 (Sections 2550 through 2566) filed 3-4-68; effective thirtieth day thereafter (Register 68, No. 10).

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**CALIFORNIA
CODE OF
REGULATIONS**

Title 4. Business Regulations

**Division 8. Division of Measurement Standards,
Department of Food and Agriculture**

Vol. 5

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Division 8. Division of Measurement Standards, Department of Food and Agriculture

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Division 8. Division of Measurement Standards,* Department of Food and Agriculture

* Formerly Bureau of Weights and Measures.

Article 1. Motor Vehicle Brake Fluid Standards

§ 2600. Specifications for Motor Vehicle Brake Fluids.

NOTE: Authority cited: Sections 20711, 20780, 21717, 21881 and 21932, Business and Professions Code. Reference: Sections 20780, 20781, 20860, 21711, 21712, 21821, 21830, 21831, 21911, 21920, 21921, Business and Professions Code.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51). For prior history, see Register 64, No. 23.
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2601. Definitions.

HISTORY

1. Repealers of Sections 2601 through 2609 filed 11-19-64; effective thirtieth day thereafter (Register 64, No. 23).

Article 2. Registration and Labeling of Motor Vehicle Brake Fluid

§ 2610. Official Sample.

NOTE: Additional authority cited: Sections 21821 and 21881, Business and Professions Code.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51). For prior history, see Register 64, No. 23.
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2611. Change of Formula or Labeling.

HISTORY

1. Amendment filed 11-19-64; effective thirtieth day thereafter (Register 64, No. 23).
2. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
3. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2612. Container Labeling.

NOTE: Additional authority cited: Section 21831, Business and Professions Code.

HISTORY

1. Amendment filed 11-19-64; effective thirtieth day thereafter (Register 64, No. 23).
2. Amendment filed 9-25-68; effective thirtieth day thereafter (Register 68, No. 36).
3. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
4. Repealer filed 4-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 2613. Numerals.

NOTE: Additional authority cited: Section 21831, Business and Professions Code.

HISTORY

1. New section filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 4-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21)

Article 3. Automatic Transmission Fluid Standards

§ 2620. Specifications.

NOTE: Authority cited for Article 3: Section 21921, Business and Professions Code.

HISTORY

1. New Article 3 (Sections 2620 through 2627) filed 6-12-62; effective thirtieth day thereafter (Register 62, No. 12).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2620.1. Basic Tests for Automatic Transmission Fluid.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2621. Compatibility.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2621.1. Other Commercial Automatic Transmission Fluids.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2621.2. Reference Automatic Transmission Fluids.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622. Compatibility.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.1. Viscosity.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 4-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 2622.2. Flash Point, C.O.C., °F.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.3. Fire Point, C.O.C., °F.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.4. Copper Strip Corrosion Test.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.5. Foaming Test.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.6. Corrosion and Rusting Test.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.7. Effect on Seals.

HISTORY

1. Amendment filed 12-15-72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.8. Oxidation Stability Test.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2622.9. Shear Test.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623. Compatibility.

NOTE: Additional authority cited: Section 21921, Business and Professions Code.

HISTORY

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.1. Viscosity.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 4–30–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 2623.2. Flash Point.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.3. Fire Point.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.4. Copper Strip Corrosion Test.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.5. Foaming Test.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.6. Corrosion and Rusting Test.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.7. Effect on Seals.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.8. Oxidation Stability Test.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2623.9. Shear Test.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2624. Scope.**HISTORY**

1. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2624.1. Outline of Method.**HISTORY**

1. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2624.2. Apparatus.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).

2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2624.3. Procedure.**HISTORY**

1. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2624.4. Report.**HISTORY**

1. Amendment of subsections (b) and (d) filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625. Scope.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.1. Outline of Method.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.2. Apparatus.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.3. Procedure.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.4. Report.**HISTORY**

1. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.5. Outline of Method.

NOTE: Additional authority cited: Sections 21921, 21932, Business and Professions Code.

HISTORY

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.6. Apparatus.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.7. Procedure.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.8. Report.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.9. Outline of Method.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.10. Apparatus.**HISTORY**

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).

2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.11. Procedure.

HISTORY

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2625.12. Report.

HISTORY

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2626. Scope.

HISTORY

1. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2627. Scope.

HISTORY

1. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

Article 4. Registration

NOTE: Authority cited for Article 4: Section 21921, Business and Professions Code. Reference: Ch. 11.5, Div. 8, Business and Professions Code.

HISTORY

1. New Article 4 (Sections 2628 through 2628.6) filed 6–12–62; effective thirtieth day thereafter (Register 62, No. 12).
2. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
3. Repealer of Article 4 (Sections 2628–2628.6) filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2). For prior history, see Register 64, No. 23.

Article 5. Gasoline and Distillate Standards

§ 2630. Specifications.

NOTE: Authority cited: Sections 20711 and 20780, Business and Professions Code.

HISTORY

1. New section filed 11–19–64; effective thirtieth day thereafter (Register 64, No. 23).
2. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
3. Repealer filed 4–30–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 2633. Specifications.

NOTE: Authority cited: Section 20784, Business and Professions Code.

HISTORY

1. New section filed 3–14–75; effective thirtieth day thereafter (Register 75, No. 11).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2634. Specifications.

NOTE: Authority cited: Section 20784, Business and Professions Code.

HISTORY

1. New section filed 3–14–75; effective thirtieth day thereafter (Register 75, No. 11).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2635. Specifications.

NOTE: Authority cited: Section 20784, Business and Professions Code.

HISTORY

1. New section filed 3–14–75; effective thirtieth day thereafter (Register 75, No. 11).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

Article 6. Motor Oil Products

§ 2638. Labeling.

NOTE: Authority cited: Section 20711, Business and Professions Code. Reference: Sections 20800, 20800.5, 20800.6, 20840 and 20853, Business and Professions Code.

HISTORY

1. New Article 6 (Sections 2638–2638.2) filed 7–18–75; effective thirtieth day thereafter (Register 75, No. 29).
2. Repealer of Article 6 (Sections 2638–2638.2) filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2). For prior history, see Register 77, No. 5.

Article 7. Labeling and Specifications of Antifreeze

§ 2640. Labeling.

NOTE: Authority cited: Sections 20711 and 21717, Business and Professions Code.

HISTORY

1. New section filed 11–19–64; effective thirtieth day thereafter (Register 64, No. 23).
2. Amendment filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
3. Renumbering from Section 2638 filed 7–18–75; effective thirtieth day thereafter (Register 75, No. 29).
4. Repealer filed 4–30–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 2640.1. Specifications for Ethylene Glycol Type Antifreeze.

NOTE: Authority cited: Section 21717, Business and Professions Code.

HISTORY

1. Amendment of subsection (b) filed 10–19–73; effective thirtieth day thereafter (Register 73, No. 42). For prior history, see Register 73, No. 38.
2. Renumbering from Section 2639 filed 7–18–75; effective thirtieth day thereafter (Register 75, No. 29).
3. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 2640.2. Specifications for Alcohol Type Antifreeze.

NOTE: Authority cited: Section 21717, Business and Professions Code. Reference: Section 21711, Business and Professions Code.

HISTORY

1. New section filed 6–18–73 as an emergency; effective upon filing (Register 73, No. 25).
2. Certificate of Compliance filed 9–21–73 (Register 73, No. 38).
3. Renumbering from Section 2640 filed 7–18–75; effective thirtieth day thereafter (Register 75, No. 29).
4. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2640.3. Other Specifications.

NOTE: Authority cited: Section 21717, Business and Professions Code. Reference: Section 21711, Business and Professions Code.

HISTORY

1. New section filed 6–18–73 as an emergency; effective upon filing (Register 73, No. 25).
2. Certificate of Compliance filed 9–21–73 (Register 73, No. 38).
3. Amendment filed 10–19–73; effective thirtieth day thereafter (Register 73, No. 42).
4. Renumbering from Section 2641 filed 7–18–75; effective thirtieth day thereafter (Register 75, No. 29).
5. Amendment filed 7–5–79; effective thirtieth day thereafter (Register 79, No. 27).
6. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2641. Coolant Specifications. (For Products Other Than Combination Antifreeze/Coolants).

NOTE: Authority cited: Section 21717, Business and Professions Code. Reference: Section 21711, Business and Professions Code.

HISTORY

1. New section filed 4–14–77; effective thirtieth day thereafter (Register 77, No. 16).
2. Repealer and new section filed 7–5–79; effective thirtieth day thereafter (Register 79, No. 27).

3. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

§ 2641.1. Exemptions for Coolants.

NOTE: Authority cited: Section 21717, Business and Professions Code. Reference: Section 21712, Business and Professions Code.

HISTORY

1. New section filed 7–5–79; effective thirtieth day thereafter (Register 79, No. 27).
2. Repealer filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

Article 8. Tank Vehicles

NOTE: Authority cited: Sections 20711, 20780, 21717, 21881 and 21932, Business and Professions Code. Reference: Sections 20780, 20781, 20860, 21711, 21712, 21821, 21830, 21831, 21911, 21920 and 21921, Business and Professions Code.

HISTORY

1. New section filed 12–15–72; effective thirtieth day thereafter (Register 72, No. 51).
2. Repealer of Article 8 (Section 2648) filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

Chapter 2. Standards of Weights and Measures

(Originally Printed 3–22–45)

Article 1. Standards of Weights and Measures

§ 2874. Definitions.

NOTE: Sections 2874 to 3386, inclusive, issued under the authority contained in Sections 12012, 12027, 12100, 12104, 12107, 12107.1, 12107.5, 12212 and 12609 of the Business and Professions Code.

The original source of Sections 2875 to 3386, inclusive, is the Rules and Regulations (including Commodity Net Weight and Measure Standards and Tolerances and Specifications) of the Director of Food and Agriculture.

HISTORY

1. Subchapter 2 originally printed 3–22–45 (Title 4). For subsequent amendments, see Registers 2, 3, 7, and 10, No. 4 in addition to those set forth after specific sections.
2. New section filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
3. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2875. Berries in Containers.

HISTORY

1. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
2. New subsection (c) filed 6–10–76 as an emergency; effective upon filing (Register 76, No. 24).
3. Certificate of Compliance filed 9–8–76 (Register 76, No. 37).
4. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2876. Butter in Containers.

HISTORY

1. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
2. Amendment filed 8–25–70; effective thirtieth day thereafter (Register 70, No. 35).
3. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2877. Oleomargarine in Containers.

HISTORY

1. Refiled 4–19–74; effective thirtieth day thereafter (Register 74, No. 16). For prior history, see Register 73, No. 38.
2. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2878. Mill Products.

NOTE: Authority cited: Section 12107.1, Business and Professions Code.

HISTORY

1. Repealer filed 7–18–73; effective thirtieth day thereafter (Register 73, No. 29).

§ 2879. Charcoal in Sacks.

HISTORY

1. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

§ 2880. Coal in Sacks.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12027 and 12107.1, Business and Professions Code.

HISTORY

1. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
2. Repealer filed 7–30–80; effective thirtieth day thereafter (Register 80, No. 31).

§ 2881. Codfish in Bricks.

HISTORY

1. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

§ 2883. Measure for Milk in Bottles Served for Consumption on Premises.

NOTE: Authority cited: Sections 12027, 12211, 12603 and 12609, Business and Professions Code. Reference: Sections 12024, 12211, 12601–12603, 12607, Business and Professions Code.

HISTORY

1. Repealer filed 1–26–77; effective thirtieth day thereafter (Register 77, No. 5).

§ 2884. Onions in Containers.

HISTORY

1. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
2. Repealer filed 6–12–64 as an emergency; designated effective upon filing (Register 64, No. 13).

§ 2885. Peas in Sacks.

HISTORY

1. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

§ 2886. Potatoes in Lugs.

HISTORY

1. Amendment filed 8–20–45 (Register 3).
2. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

§ 2887. Potatoes in Containers.

HISTORY

1. Amendment filed 8–25–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history see Register 64, No. 6.
2. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2888. Gravimetric Testing of Fluid Products and Products Sold by Count.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections Code.

HISTORY

1. New section filed 1–8–62; effective thirtieth day thereafter (Register 62, No. 1).
2. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
3. Amendment filed 11–16–64; effective thirtieth day thereafter (Register 64, No. 23).
4. Repealer and new section filed 7–30–80; effective thirtieth day thereafter (Register 80, No. 31).
5. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2889. Weight Testing of Fluid Dairy Products.

NOTE: Authority cited: Section 12027 of the Business and Professions Code. Reference: Sections 12027, 12608 and 12609, Business and Professions Code.

HISTORY

1. New section filed 10–10–67; effective thirtieth day thereafter (Register 67, No. 41).
2. Amendment filed 7–9–68; effective thirtieth day thereafter (Register 68, No. 26).
3. Amendment filed 9–23–71; effective thirtieth day thereafter (Register 71, No. 39).
4. Amendment filed 1–26–77; effective thirtieth day thereafter (Register 77, No. 5).
5. Repealer filed 7–30–80; effective thirtieth day thereafter (Register 80, No. 31).

§ 2890. Meat, Fish, Poultry Sales by Weight.

NOTE: Authority cited: Sections 12027, 12211, 12603 and 12609, Business and Professions Code. Reference: Sections 12024, 12024.5, 12211, 12601, 12602, 12603 and 12607, Business and Professions Code.

HISTORY

1. New section filed 2–19–76; effective thirtieth day thereafter (Register 76, No. 8).
2. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2891. Weight Testing of Packages Labeled by Count.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12027 and 12609, Business and Professions Code.

HISTORY

1. New section filed 10–4–77; effective thirtieth day thereafter (Register 77, No. 41).
2. Repealer filed 7–30–80; effective thirtieth day thereafter (Register 80, No. 31).

§ 2892. Wood for Fuel Purposes.

NOTE: Additional authority cited: Sections 12027 and 12607, Business and Professions Code.

HISTORY

1. Amendment filed 1–8–62; effective thirtieth day thereafter (Register 62, No. 1).
2. Amendment filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).
3. Repealer filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40).

§ 2893. Weight Testing of Fluid Petroleum Products.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12027, 12608 and 12609, Business and Professions Code.

HISTORY

1. New section filed 9–23–71; effective thirtieth day thereafter (Register 71, No. 39). For history of prior section, see Register 70, No. 35.
2. Amendment filed 9–26–75; effective thirtieth day thereafter (Register 75, No. 39).
3. Repealer filed 7–30–80; effective thirtieth day thereafter (Register 80, No. 31).

Article 2. Tare Weights of Vehicles and Containers for Edible Agricultural Commodities

HISTORY

1. Repealer of Article 2 (Sections 2894–2906) filed 1–31–83; effective thirtieth day thereafter (Register 83, No. 6). For prior history, see Registers 78, Nos. 37 and 21; 77, Nos. 21, 7 and 1; 76, Nos. 36, 28 and 13; and 74, Nos. 43 and 27.

Article 3. Tolerances

§ 2914. Tolerances Other Than for Commercial Weighing and Measuring Apparatus.

HISTORY

1. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

§ 2915. Sweet Potatoes.

HISTORY

1. Repealer filed 10–1–63; effective thirtieth day thereafter (Register 63, No. 17).

Article 4. Net Quantity Declarations on Packaged Commodities

NOTE: Authority cited for Article 4: Sections 12027, 12107, 12107.1, 12212 and 12609, Business and Professions Code.

HISTORY

1. Repealer of Article 4 and new Article 4 (Sections 2918 through 2929.1) filed 8–25–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history see Registers 62, No. 12; 63, No. 17; 64, No. 23; 65, No. 1; 66, Nos. 12 and 19; 68, Nos. 2 and 26.
2. Repealer of Article 4 (Sections 2918 through 2929.1) filed 9–30–83; effective thirtieth day thereafter (Register 83, No. 40). For prior history, see Registers 73, No. 29; 75, Nos. 18 and 39.

Article 5. Sampling and Testing Procedure for Estimating Container Fill of Packaged Commodities

Definitions

§ 2930. Application of Definitions.

NOTE: Authority cited for new Article 5 (§§ 2930 through 2933.3.20): Section 12027, Business and Professions Code. Reference: Section 12211, Business and Professions Code.

HISTORY

1. New article (§§ 2930 through 2933.3.20) filed 12–30–60; effective thirtieth day thereafter (Register 61, No. 1).
2. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931. Container.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.1. Package.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.2. Tare Material.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.3. Lot; Sub-Lot.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.4. Lot-Symbol.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.5. Classes of Prepackaged Commodities.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.6. Sample.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.7. Retail Level.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.8. Wholesale Level.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.9. Unsuitable-for-Sale.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2931.10. Error.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2932. Testing Equipment and Use.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2932.1. Location of Package-Checking Operations.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2932.2. Placement, etc. of Testing Equipment.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2932.2.1. Use of Store Scale for Tests.

HISTORY

1. Amendment filed 9–23–71; effective thirtieth day thereafter (Register 71, No. 39).

2. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2932.3. Recordation of Errors.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933. Intent of Outline of Procedures.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.1. Lots.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.2. Off–Sale Order.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3. Payment for Packages.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.1. (Step 1.) Number to Be Tested.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.2. (Step 2.) Package Sample Size.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.3. (Step 3.) Tare Sample Size.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.4. (Step 4.) Recording of Tare Sample.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.5. (Step 5.) Tare Weight Determination.

HISTORY

1. Amendment of subsection (b) filed 9–23–71; effective thirtieth day thereafter (Register 71, No. 39).

2. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.6. (Step 6.) Recording of Errors.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.7. (Step 7.) Established Tolerance.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.8. (Step 8.) Preliminary Total Error.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.9. (Step 9.) Range.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.10. (Step 10.) Unreasonable Errors.

HISTORY

1. Corrector amendment filed 1–26–61 as an emergency; designated effective 1–29–61. Certificate of compliance included (Register 61, No. 2).

2. Amendment of subsection (d) filed 8–25–70; effective thirtieth day thereafter (Register 70, No. 35).

3. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.11. (Step 11.) Total Error.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.12. (Step 12.) Preliminary Determination.

HISTORY

1. Amendment of subsections (b) and (c) filed 8–25–70; effective thirtieth day thereafter (Register 70, No. 35).

2. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.13. Procedure to Be Used.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.14. Range Variation Data.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

§ 2933.3.20. Procedures for Commodities Sold by Volume in Standard–Pack or Random–Pack.

HISTORY

1. Repealer filed 12–20–90; operative 1–19–91 (Register 91, No. 9).

Article 5.1. Procedures to Determine Accuracy of Net Weight Statements for Packaged Meat and Meat Products and Poultry and Poultry Products, and Required Action for Short Weight Packages

§ 2940. Application of Article.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12024, 12024.5, 12601, 12603 and 12607, Business and Professions Code.

HISTORY

1. New Article 5.1 (Sections 2940, 2940.1, and 2940.2) filed 4–19–73 as an emergency; effective upon filing (Register 73, No. 16).

2. Certificate of Compliance filed 8–16–73 (Register 73, No. 33).

3. Repealer filed 5–27–87; operative 6–26–87 (Register 87, No. 24).

§ 2940.1. Package Inspection.

HISTORY

1. Repealer filed 5–27–87; operative 6–26–87 (Register 87, No. 24).

§ 2940.2. Off Sale Procedures.

HISTORY

1. Repealer filed 5–27–87; operative 6–26–87 (Register 87, No. 24).

Article 5.2. Net Quantity Package Inspection Procedures Under Federal Standards of Accuracy

§ 2941. Application of Article.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12024, 12024.5, 12601, 12603, 12607 and 12609, Business and Professions Code.

HISTORY

1. New Article 5.2 (Section 2941) filed 6–2–76 as an emergency; effective upon filing (Register 76, No. 23).

2. Editorial correction (Register 76, No. 37).

3. Certificate of Compliance filed 9–8–76 (Register 76, No. 37).

4. Repealer filed 5–27–87; operative 6–26–87 (Register 87, No. 24).

Article 6. Weighmasters

NOTE: Authority cited for Article 6: Sections 12027, 12107.5 and 12716, Business and Professions Code.

HISTORY

1. New Article 6 (Sections 295 through 2956) filed 6–12–62; effective thirtieth day thereafter (Register 62, No. 12).

2. Repealer of Article 6 (Sections 2950–2962) filed 1–31–83; effective thirtieth day thereafter (Register 83, No. 6). For prior history, see Registers 77, Nos. 16 and 1; 76, Nos. 36, 28 and 18; 74, Nos. 43 and 28; 73, No. 29; 68, Nos. 6 and 2; 67, No. 38; 66, Nos. 25, 20 and 2; and 62, No. 12.

**Chapter 2.1. Package Inspection Under
Federal Standards of Accuracy**

HISTORY

1. New Subchapter 2.1 (Sections 2970, 2970.1, 2970.2) filed 11-1-73 as an emergency; effective upon filing (Register 73, No. 44).

Article 1. Flour and Flour Products**§ 2970. Application of Article.**

NOTE: Authority cited for Subchapter 2.1: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12024, 12601 and 12603, Business and Professions Code.

[The next page is 157.]

2. Certificate of Compliance filed 2-1-74 (Register 74, No. 5).
3. Repealer filed 5-27-87; operative 6-26-87 (Register 87, No. 24).

§ 2970.1. Package Inspection.

HISTORY

1. Repealer filed 5-27-87; operative 6-26-87 (Register 87, No. 24).

§ 2970.2. Off Sale Procedures.

HISTORY

1. Repealer filed 5-27-87; operative 6-26-87 (Register 87, No. 24).

Chapter 3. Polyethylene Commodities—Labeling and Testing

(Originally Printed 7-13-74)

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12024, 12601-12603, and 12607, Business and Professions Code.

HISTORY

1. New subchapter 3 (Sections 2980-2982.2, not consecutive) filed 7-12-74; effective thirtieth day thereafter (Register 74, No. 28). For history of former Subchapter 3, see Register 69, No. 12.
2. Repealer of Subchapter 3 (Sections 2980-2982.2) filed 9-30-83; effective thirtieth day thereafter (Register 83, No. 40).

Chapter 4. Tolerances and Specifications for Commercial Weighing and Measuring Devices

(Originally Printed 3-22-45)

NOTE: Authority cited for revision filed 2-28-67: Sections 12107 and 12212, Business and Professions Code. Issuing agency: Department of Agriculture, Bureau of Weights and Measures.

HISTORY

1. Subchapter 4 originally printed 3-22-45, in Title 4.
2. Revision of Subchapter 4 filed 9-2-58; effective thirtieth day thereafter (Register 58, No. 16). For changes intervening original printing and revision, see Registers 2, 3, 5, 7, 8; 10, Nos. 1, 2 and 4; 12, Nos. 5 and 11; 14, No. 3; 19, Nos. 2, 4 and 6; 20, No. 3; 26, No. 7; 54, No. 11; 55, No. 18.
3. Repealer of Subchapter 4 and new Subchapter 4 filed 2-28-67; effective thirtieth day thereafter (Register 67, No. 9). (For changes intervening 9-2-58 revision and 2-28-67 revision, see Register 59, No. 2; 61, No. 1; 62, No. 1; 63, No. 17; 64, Nos. 13, 22 and 23).
4. Repealer of Subchapter 4 (Articles 1-22, Sections 3000-3196.6.5, not consecutive) filed 4-21-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17). For prior history, see Register 79, No. 22. Cross-reference: Title 4, Chapter 9, Sections 4000-4090, not consecutive.

Chapter 5. Petroleum

(Originally Filed 4-3-61)

§ 3200. Advertising Medium.

NOTE: Authority cited for Article 1: *Bank of Italy vs. Johnson*, 200 Cal. 1 @ 20; *Cal. Drive-In Restaurant Assn vs. Clark*, 22 Cal. 2d. 287 @ 303. Reference: Section 20880(b), Business and Professions Code.

HISTORY

1. New Subchapter 5 (§§ 3200 through 3204, 3204.1, 3204.2) filed 4-3-61; effective thirtieth day thereafter (Register 61, No. 7).
2. Repealer filed 4-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).

§ 3200.2. Price Signs, Fractions.

NOTE: Authority cited: Sections 12027, 12107, 12107.1, 12738, 12766, 12799.5, 20711, Business and Professions Code. Reference: Article 8, Sections 20883 and 20885, Business and Professions Code.

HISTORY

1. New section filed 4-19-74; effective thirtieth day thereafter (Register 74, No. 16).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 3200.3. Total Price per Gallon.

NOTE: Authority cited: Sections 12027, 12107, 12107.1, 12738, 12766, 12799.5, 20711, Business and Professions Code. Reference: Article 5, Section 20826.5 and Article 6, Section 20840, Business and Professions Code.

HISTORY

1. New section filed 4-19-74; effective thirtieth day thereafter (Register 74, No. 16).
2. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 3201. Illumination.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 3202. Trading Stamp.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 3203. Octane Rating.

HISTORY

1. Repealer filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

§ 3204. Examples—Trading Stamps.

HISTORY

1. Repealer filed 6-12-62; effective thirtieth day thereafter (Register 62, No. 12).

§ 3204.1. Examples—Merchandise.

HISTORY

1. Repealer filed 8-23-68; effective thirtieth day thereafter (Register 68, No. 32).

§ 3204.2. Examples—Service.

HISTORY

1. Repealer filed 8-23-68; effective thirtieth day thereafter (Register 68, No. 32).

Article 2. Motor Oil Fee

NOTE: Authority cited: Sections 20711 and 20769 of the Business and Professions Code. Reference: Sections 20766-20769 of the Business and Professions Code.

HISTORY

1. New Article 2 (Sections 3250-3258, not consecutive) filed 12-31-79 as an emergency; effective upon filing (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 4-30-80.
2. Certificate of Compliance transmitted to OAL 4-23-80 and filed 5-2-80 (Register 80, No. 18).
3. Amendment filed 7-1-80 as an emergency; effective upon filing (Register 80, No. 27.) A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-28-80.
4. Certificate of Compliance transmitted to OAL 10-28-80 and filed 12-1-80 (Register 80, No. 49).
5. Repealer of Article 2 (Sections 3250-3260, not consecutive) filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2). For prior history, see Registers 80, No. 26 and 80, No. 14.

Chapter 6. Administration

NOTE: Authority cited: Sections 12027, 20950, 21717 and 21881, Business and Professions Code.

HISTORY

1. New section filed 6-9-71 as procedural; effective upon filing (Register 71, No. 24).
2. Repealer of Subchapter 6 (Section 3300) filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).

Chapter 6.1. Device Repairemen

NOTE: Authority cited for Subchapter 6.1 (Sections 3310, 3310.1 through 3310.10): Sections 12027 and 12540, Business and Professions Code. Reference: Sections 12531-12540, Business and Professions Code.

HISTORY

1. New Subchapter 6.1 (Sections 3310, 3310.1-3310.10) filed 5-2-74; designated effective 7-1-74 (Register 74, No. 18).
2. Repealer of Subchapter 6.1 (Sections 3310, 3310.1-3310.10) filed 4-21-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17). For prior history, see Registers 79, No. 43; 78, No. 49 and 78, No. 13.

Chapter 7. Retail Sale of Motor Vehicle Fuel

NOTE: Authority cited for Subchapter 7 (Sections 3350 through 3352): Section 20711, Business and Professions Code. Reference: Articles 5 and 8, Chapter 7, Division 8, Business and Professions Code.

HISTORY

1. New Subchapter 7 (Sections 3350 through 3352) filed 9–11–72 as an emergency; designated effective 9–17–72 (Register 72, No. 38).
2. Certificate of Compliance filed 1–12–73 (Register 73, No. 2).
3. Repealer of Subchapter 7 (Sections 3350–3352) filed 1–8–82; effective thirtieth day thereafter (Register 82, No. 2).

4. Editorial correction of subchapter heading (Register 82, No. 7).

Chapter 8. Submeter Billing for Utility Services

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12100 and 12107, Business and Professions Code.

HISTORY

1. New Subchapter 8 (Section 3360) filed 7–26–78; effective thirtieth day thereafter (Register 78, No. 30).
2. Repealer of Subchapter 8 (Section 3360) filed 4–21–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17).

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**Division 9. Division of Measurement Standards,
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Division 9. Division of Measurement Standards, Department of Food and Agriculture

Chapter 1. Tolerances and Specifications for Commercial Weighing and Measuring Devices

Article 1. National Uniformity, Exceptions and Additions

§ 4000. Application.

Commercial weighing and measuring devices shall, except where noted below, conform to the latest requirements set forth in the National Institute of Standards and Technology Handbook 44 "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices", which is herein incorporated by reference, and to the Additional Requirements listed herein. Copies of Handbook 44 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new article 1 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 93, No. 19.

§ 4001. Exceptions.

The following regulations in Handbook 44 are not adopted or incorporated by reference:

1.10. General Code.

G-S.1.2. Remanufactured Devices and Remanufactured Main Elements.

G-T.1. Acceptance Tolerances.

(b) equipment that has been placed in commercial service within the preceding 30 days and is being officially tested for the first time;

(c) equipment that has been returned to commercial service following official rejection for failure to conform to performance requirements and is being officially tested for the first time within 30 days after corrective service;

(d) equipment that is being officially tested for the first time within 30 days after major reconditioning or overhaul;

2.20. Scales.

S.1.8.3. Customer Indications.

N.3. Minimum Test Weights and Test Loads*.

UR.2.6.1 Vehicle Scales.

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3.31. Vehicle-Tank Meters.

UR.2.2. Ticket Printer; Customer Ticket.

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S.2.6. Automatic Temperature Compensation.

N.4.1.1. Automatic Temperature Compensation.

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S.4.3. Temperature Compensation.

Appendix D. Definitions for:

Remanufactured Device.

Repaired Device.

Remanufactured Element.

Repaired Element.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 2 and section and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 92, No. 9.
2. Amendment of subsection 2.20, S.1.8.3 filed 4-9-96; operative 5-9-96 (Register 96, No. 15).
3. Editorial correction of HISTORY 2 (Register 96, No. 49).
4. Amendment of subsection (d) filed 9-28-98; operative 10-28-98 (Register 98, No. 40).
5. Amendment filed 10-2-2003; operative 11-1-2003 (Register 2003, No. 40).
6. Change without regulatory effect amending third paragraph filed 3-23-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 13).

§ 4001.1. G-S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection G-S.1 filed 8-16-82 (Register 82, No. 34).
2. Amendment of subsection G-S.1 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
3. Repealer of subsection G-S.5.8 filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
4. Change without regulatory effect of subsections G-S.5.2.3, G-S.5.3.1, G-S.5.5., G-S.5.6.1 and G-S.5.7 filed 6-23-86; effective thirtieth day thereafter (Register 86, No. 26).
5. Amendment of subsection G-S.1 and new subsections G-S.5.2.2(d) and G-S.8 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
6. Change without regulatory effect of subsections G-S.1 and G-S.2 (Register 88, No. 2).
7. Amendment of subsection G-S.5.3.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
8. Editorial correction of HISTORY 7 printing error (Register 88, No. 20).
9. Amendment of subsection G-S.8 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
10. Amendment of subsections G-S.5.3.1, G-S.5.6., and G-S.8. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
11. Amendment of subsections G-S.1 and G-S.5.2.1 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
12. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4001.2. G-N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection G-N.2. filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Change without regulatory effect of subsection G-N.1 filed 6-23-86; effective thirtieth day thereafter (Register 86, No. 26).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4001.4. G-T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection G-T.2 filed 8-16-82 (Register 82, No. 34).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4001.5. G-UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection G-UR.2.2 filed 6-23-86; effective thirtieth day thereafter (Register 86, No. 26).
2. Amendment of subsection G-UR.3.4 and new subsection G-UR.4.6 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
3. Amendment of subsections G-UR.2.3. and G-UR.4.1. filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4001.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).

2. Amendment of "nonretroactive" filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
3. Amendment of "nonretroactive" filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4002. Additional Requirements.

The following sections apply to devices in addition to the Handbook 44 requirements that are incorporated by reference. The number in parenthesis following the section number and section title refers to the related section in Handbook 44; i.e., 4002.1. General Code (1.10.) refers to Section 1.10. General Code in Handbook 44.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 3 and section and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 86, No. 26.

§ 4002.1. General Code (1.10.)

(a) Type Approval Use. Upon written authorization of the Secretary, a county sealer may allow a device to be used for commercial purposes during a type approval inspection period following initial testing.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 93, No. 19.
2. Repealer of subsection (b) filed 4-9-96; operative 5-9-96 (Register 96, No. 15).

§ 4002.2. Scales (2.20.)

(a) Recommended Minimum² Test Weights and Test Loads.¹ The recommended² minimum test weights and test loads for in-service tests (except railway track scales) are shown in Table 4. [See Table 4 for ¹ and ²]

TABLE 4. RECOMMENDED² MINIMUM TEST WEIGHTS AND TEST LOADS¹

Device Capacity (Pounds)	Recommended ² minimums (in terms of device capacity)		Recommended ² (where practicable)
	Test Weights (greater of)	Test Loads	
0 to 100	105%		
101 to 1,000	50% or 100 lb	105%	
1,001 to 40,000	25% or 500 lb	50%	Test weights to dial face capacity, 1,000d or test load to used capacity, if greater than minimums specified
40,000 +	12.5% or 10,000 lb	25%	

¹ The term "test load" means the sum of the combination of field standard test weights and any other applied load used in the conduct of a test using substitution or build-up test methods.

Except for railway track scales, the recommended² minimum test of a class III L scale shall consist of one test from zero to at least 25% of the scale capacity and then one strain load test to at least the used capacity of the device.

Each test is to be conducted using a known test load of at least 25% of scale capacity. This test load may be comprised entirely of test weights or a combination of test weights equal to at least 12.5% of scale capacity and a substitution load.

² The word "Recommended" will be deleted from this section as of January 1, 1998. This will make the amounts of test weights and test loads specified in Table 4 mandatory as of January 1, 1998.

(b) Minimum Load on a Vehicle Scale. Except for weighments of ferrous metals, cardboard, paper, rags or plastic, and the weighing of ve-

hicles for registration purposes, a vehicle scale shall not be used for weighing net loads less than the value of 20 scale divisions.

(c) Class III, Class III L and Unmarked Devices Used For Recycling. Except for weighments of ferrous metals, cardboard, paper, rags, or plastic, Class III, Class III L and unmarked devices used in recycling shall not be used for weighing net loads less than the value of 20 scale divisions.

(d) Livestock Scales Not Equipped With Balance Indicator. The Sensitivity Requirement for livestock scales not equipped with a balance indicator shall be 10 pounds, notwithstanding the requirements of Handbook 44, Section 2.20. Scales, T.2.7.2.

(e) Customer's Indications. Weight indications shall be shown on the customer's side of computing scales when these are used for direct sales to retail customers. Computing scales equipped on the operator's side with digital indications, such as net weight, unit price, or total price, shall be similarly equipped on the customer's side. *Unit price displays visible to the customer shall be in terms of whole units of weight, and not in common or decimal fractions. (Nonretroactive May 9, 1996)*

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 93, No. 19.
2. New subsection (e) filed 4-9-96; operative 5-9-96 (Register 96, No. 15).
3. Editorial correction of subsection (e) (Register 96, No. 49).

§ 4002.3. Vehicle-Tank Meters. (3.31.)

UR.2.2. Ticket Printer; Customer Ticket. Vehicle-mounted metering systems shall be equipped with a ticket printer which shall be used for all sales where product is delivered through the meter. A copy of the ticket issued by the device shall be left with the customer at the time of delivery or as otherwise specified by the customer. [Nonretroactive as of January 1, 1995.]

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 9-28-98; operative 10-28-98 (Register 98, No. 40). For prior history, see Register 96, No. 15.

§ 4002.4. Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices. (3.32.)

(a) Temperature Compensation. All liquefied petroleum gas measuring devices with a manufacturer's maximum rated flow capacity exceeding 20 gallons per minute shall be equipped with automatic means to correct the volume delivered to the volume at 60 °F. The automatic temperature compensator shall be connected, operable and in use at all times.

(b) The provisions of Handbook 44, Section 3.32., S.3.1, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices Code shall not apply to equipment located at wholesale loading terminals when used exclusively for the purpose of filling transports utilizing the spray fill, or when the delivery is being made simultaneously to truck and trailer from one meter when the product being delivered into the truck and trailer is being purchased by the same person.

(c) Wholesale Devices Equipped With Automatic Temperature Compensating Systems. On wholesale devices equipped with automatic temperature compensating systems, normal tests:

(1) Shall be conducted with the temperature compensating system connected and operating by comparing the compensated volume indicated or recorded to the actual delivered volume corrected to 60 °F; and

(2) May be conducted with the temperature compensating system deactivated, comparing the uncompensated volume indicated or recorded to the actual delivered volume.

The first test shall be performed with the automatic temperature compensating system operating in the "as found" condition. On devices that indicate or record both the compensated and uncompensated volume for each delivery, the tests in (1) and (2) may be performed as a single test.

(d) Vapor-Return Line. During any metered delivery of liquefied petroleum gas from a supplier's tank to a receiving container, there shall be no vapor-return line from the receiving container to the supplier's tank.

(e) Signs. Any retail liquefied petroleum gas dispenser, with the exception of those mounted on a motor vehicle, shall display a sign showing the price schedule of all transactions. The sign shall be where it is plainly discernable to the customer. All letters, figures or numerals used to express the price schedule shall be at least three-quarters of an inch in height.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 94, No. 8.
2. Editorial correction of subsections (c)(2) and (e) (Register 96, No. 49).

§ 4002.4.1. T.N. Tolerances Applicable to Devices Marked I, II, III, III L, and IIII.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Change without regulatory effect of subsections T.N.2.5, T.N.3.1, T.N.8, T.N.8.1.1 and T.N.8.4 filed 6-23-86; effective thirtieth day thereafter (Register 86, No. 26).
3. Editorial correction of printing errors (Register 86, No. 41).
4. Editorial correction of subsection T.N.6.1(b) printing error (Register 86, No. 52).
5. Amendment of subsection T.N.2.1 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
6. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
7. Change without regulatory effect of subsections T.N.6.1 and T.N.6.2 and renumbering of former subsection T.N.8.4 to T.N.8.2 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
8. Amendment of subsection T.N.4.5 and repealer of subsection T.N.5.2 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
9. Amendment of section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
10. Editorial correction of printing error in subsection T.N.4.5.(a) (Register 92, No. 34).
11. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4002.5. Hydrocarbon Gas Vapor-Measuring Devices. (3.33.)

(a) Leak Test. Each meter shall be submitted to a pressure leak test not to exceed the manufacturer's maximum rated pressure.

(b) Temperature Compensation. - If a device is equipped with an automatic temperature compensator, this shall be indicated on the badge or immediately adjacent to the badge of the device and on the register.

(c) Retention of Customer Invoices. Any person engaging in the sale of hydrocarbon gas vapor shall retain a record of:

- (1) each individual hydrocarbon gas vapor meter billing invoice, and
- (2) the applicable rate schedule for a period of not less than 12 months and shall make them available at reasonable times for inspection and copying by the customer and the county sealer of weights and measures.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 93, No. 19.

§ 4002.6. Water Meters. (3.36.)

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11-1-94; operative 12-1-94 (Register 94, No. 44). For prior history, see Register 94, No. 8.
2. Repealer filed 4-9-96; operative 5-9-96 (Register 96, No. 15).

§ 4002.7. Farm Milk Tanks. (4.42.)

(a) Calibration at Installation. Any farm milk tank exceeding 1,000 gallons capacity installed or relocated after January 1, 1982 shall be calibrated at the farm and a volume chart prepared before the acceptance test is performed.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4002.8. Liquid-Measuring Devices. (3.30.)

(a) Wholesale Device Equipped With Automatic Temperature Compensating Systems. On wholesale devices equipped with automatic temperature compensating systems, normal tests:

(1) shall be conducted with the temperature compensating system connected and operating by comparing the compensated volume indicated or recorded to the actual delivered volume corrected to 60 °F, and

(2) may be conducted with the temperature compensating system deactivated by comparing the uncompensated volume indicated or recorded to the actual delivered volume.

The first test shall be performed with the automatic temperature compensating system operating in the "as found" condition.

On devices that indicate or record both the compensated and uncompensated volume for each delivery, the tests in (1) and (2) may be performed as a single test.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).
2. Editorial correction of penultimate paragraph (Register 96, No. 49).

§ 4003. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Repealer of article 4 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4003.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Editorial correction of subsection S.2 printing error (Register 87, No. 25).
3. Amendment of subsection S.1.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
4. Amendment of subsections S.1.5, S.1.6 and S.3.1 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
5. Amendment of subsections S.1.5., S.1.6., S.1.8. and S.3.1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4003.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11). For prior history see Register 83, No. 27.
2. Editorial correction of subsection N.3.3(a) printing error (Register 87, No. 25).
3. Amendment of subsections N.2, N.3.2 and N.3.3 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
4. Amendment of subsections N.3.1, N.3.2 and N.3.3, and new subsection N.3.2.1 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
5. Amendment of subsections N.3.1, N.3.2., N.3.2.1. and N.3.3. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Editorial correction of printing error in subsection N.3.2.1 (Register 92, No. 34).
7. Amendment of subsections N.1.2, N.3.2.1, and N.3.3 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
8. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4003.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3-3-87; effective thirtieth day thereafter (Register 87, No. 11). For prior history, see Register 83, No. 27.
2. Editorial correction of subsection T.4 printing error (Register 87, No. 25).
3. Amendment of subsection T.4.3 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

4. Editorial correction of subsection T.4.3 printing error (Register 88, No. 20).
5. Repealer of subsection T.4.3 filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
6. Amendment of subsection T.3 and new subsection T.4.1.2 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
7. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
8. Editorial correction of printing error in subsection T.3.(b) (Register 92, No. 34).
9. Change without regulatory effect amending T.3.1.2. filed 2–24–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 8).
10. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4003.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11). For prior history, see Register 83, No. 27.
2. Amendment of subsection UR.3.2 filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
3. Editorial correction of HISTORY 2 printing error (Register 88, No. 20).
4. Change without regulatory effect of subsection UR.3.2. pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
5. Amendment of subsection UR.1. filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
6. Amendment of subsections UR.3.2 and UR.4 filed 5–7–93; operative 6–7–93 (Register 93, No. 19).
7. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4003.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new section filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Editorial correction of subsection UR.2 printing error (Register 87, No. 25).
3. Change without regulatory effect (Register 88, No. 2).
4. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
5. Amendment filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
6. Amendment of “nonretroactive” filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
7. Repealer of “certifying authority” and new “official with statutory authority” filed 5–7–93; operative 6–7–93 (Register 93, No. 19).
8. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4004. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article 5 (heading only) filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).

2. Repealer of article 5 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4004.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4004.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect correcting section number filed 6–23–86; effective thirtieth day thereafter (Register 86, No. 26).
2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4004.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of Table 2 filed 8–16–82 (Register 82, No. 34).
2. Amendment of Table filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
3. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Renumbering of former subsections A.2 and A.3 to subsections A.3 and A.4 respectively, and new subsection A.2 filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Editorial correction of subsection A.3(b) printing error (Register 87, No. 25).
3. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
4. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
5. Editorial correction of printing error in subsection A.3 (Register 92, No. 34).
6. Repealer of article 6 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).
2. Editorial correction of subsection S.1.4.4.1(b) filed 11–17–83 (Register 83, No. 47).
3. Amendment of subsections S.1.1.3, S.1.4.4.3, S.2.4 and S.2.5 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).

4. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
5. Change without regulatory effect of subsection S.1.4.4 filed 6–23–86; effective thirtieth day thereafter (Register 86, No. 26).
6. Editorial correction of printing errors (Register 86, No. 41).
7. Renumbering of former subsection S.1.4.5 to subsection S.1.4.7, new subsections S.1.4.5 and S.1.4.6, and repealer of subsection S.2.5.1 filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
8. Change without regulatory effect of subsections S.1.2.3, S.1.3.1 and S.4.3.1 (Register 88, No. 2).
9. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
10. Change without regulatory effect of subsections S.1.5.1, S.2.7.4 and S.2.9 pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
11. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
12. Amendment of subsection S.1.6.4.1 and new subsection S.1.6.5.4 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
13. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
14. Editorial correction of printing error in subsections S.1.6.2.1, S.1.6.5, S.1.6.5.2, S.2.4.3, S.3.4, S.3.6(c), S.4.2, and Table 1 (Register 92, No. 34).
15. Repealer of subsections S.3.3 and S.3.4 and redesignation of S.3.5–S.3.9 to S.3.3–S.3.7, and amendment of subsections S.1.6.5.1, S.2.2, S.3.1 and S.3.2 filed 5–7–93; operative 6–7–93 (Register 93, No. 19).
16. Amendment of subsection S.1.6.2.1 filed 2–25–94; operative 3–28–94. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 94, No. 8).
17. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection N.4.2.2 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
4. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
5. Change without regulatory effect of subsections N.3.5 and N.4.1 pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
6. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
7. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
8. Amendment of subsection N.4.1 filed 5–7–93; operative 6–7–93 (Register 93, No. 19).
9. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection T.2.1 filed 8–16–82 (Register 82, No. 34).
2. Amendment filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).
3. Editorial correction of Tables 1 and 2 filed 11–17–83 (Register 83, No. 47).
4. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
5. Editorial correction of printing errors (Register 86, No. 41).
6. Amendment of subsection T.2.3 and Table 3, and new subsections T.2.3.1 and T.2.3.2 filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
7. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
8. Change without regulatory effect of subsections T.2.3.1 and T.2.3.3 pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
9. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
10. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
11. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.2.4 filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection UR.3.2 (filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Amendment of subsection UR.1.1.1 filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
4. Change without regulatory effect of subsection UR.3.2 (Register 88, No. 2).
5. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
6. Change without regulatory effect of subsections UR.1.1, UR.2.1, UR.3.2 and UR.3.5.2 pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
7. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
8. Amendment of subsection UR.3.2, renumbering of subsections UR.3.3, UR.3.4 and UR.3.5 to subsections UR.3.4, UR.3.5 and UR.3.6, new subsection UR.3.3, renumbering of subsection UR.3.5.1 to subsection UR.3.6.1, renumbering and amendment of subsection UR.3.5.1.1 to subsection UR.3.6.1.1, renumbering of subsection UR.3.5.1.2 to subsection UR.3.6.1.2, renumbering of subsection UR.3.5.2 to subsection UR.3.6.2, renumbering of subsection UR.3.5.2.1 to subsection UR.3.6.2.1, and renumbering subsection UR.3.5.2.2 to subsection UR.3.6.2.2 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
9. Amendment of section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
10. Editorial correction of printing error in subsection UR.3.2(b) and subsection heading UR.3.3 (Register 92, No. 34).
11. Amendment of subsection UR.2.4 filed 5–7–93; operative 6–7–93 (Register 93, No. 19).
12. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4005.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
3. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations, filed 9–1–88 (Register 88, No. 37).
4. Repealer and new section filed 3–13–89; operative 4–12–89 (Register 89, No. 12).
5. Amendment of “clear interval”, “dispenser”, “mass flow meter”, “motor fuel device”, “nonretroactive”, and “pressure type (device)” filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
6. Editorial correction of printing error in “minimum clear interval” (Register 92, No. 34).
7. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4006. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection A.1 filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Repealer of article 7 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4006.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection S.1.4.1 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Repealer of subsections S.3.7 and S.3.8 filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
3. Amendment of subsection A.1 filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
4. Change without regulatory effect of subsections S.1.3.1 and S.5.2 (Register 88, No. 2).
5. Amendment of subsections S.1.2.3, S.2.2 and S.2.2.1 filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
6. Amendment of subsections S.1.1.2, S.1.1.3, S.1.4.2 and S.1.4.3, and new subsections S.2.4 and S.5.5 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
7. Amendment of subsections S.1.1.2., S.1.1.3., S.1.4.3., and S.5.5. filed 8–1–91; operative 9–2–91 (Register 92, No. 9).

8. Amendment of subsection S.1.1.2(c) filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
9. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4006.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsections N.1 and N.3 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
2. Amendment of subsections N.1. and N.3. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4006.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of Tables 1 and 2 filed 11-17-83 (Register 83, No. 47).
2. Amendment of subsection T.2 and new subsection T.3 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
3. Amendment of subsections T.2 and T.3 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
4. Amendment of Table 2a and subsection T.3. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Repealer of tables 2-2a, new table 2, and amendment of subsection T.2* and tables 1-1a filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4006.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.2.1 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Repealer of subsection UR.1.4 filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
3. Change without regulatory effect of subsection UR.1.3 (Register 88, No. 2).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4006.6.* D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
2. Amendment of section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection A.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Repealer of article 8 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new subsection S.2.3 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection S.2.6 filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Amendment filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
4. Editorial correction of printing errors (Register 86, No. 41).
5. Editorial correction of subsection S.1.4.4 (Table 1) printing error (Register 86, No. 52).
6. Amendment of subsection S.1.1.5 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
7. Change without regulatory effect of subsections S.1.2.3 and S.1.3.1 (Register 88, No. 2).

8. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
9. Change without regulatory effect of subsections S.1.1.6, S.2.5 and S.2.7 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
10. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
11. Change without regulatory effect of subsection S.1.4 pursuant to section 100, title 1, California Code of Regulations filed 2-7-90 (Register 90, No. 11).
12. Amendment of section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
13. Editorial correction of printing error in subsections S.1.4.2 and S.2.6 headings (Register 92, No. 34).
14. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.3 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Change without regulatory effect of subsections N.4.1 and N.4.2.3 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
4. Amendment of subsections N.4.1.1, N.4.3.1 and N.4.3.2 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
5. Amendment of subsections N.4.1.1. and N.4.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Editorial correction of printing error in subsection N.4.1.1 heading and text (Register 92, No. 34).
7. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Change without regulatory effect of subsections T.2.1 and T.2.2 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
3. Amendment of subsection T.2 and repealer of subsections T.2.1 and T.2.2 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment of subsection T.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. New subsection T.3 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection UR.2.9 * filed 8-16-82 (Register 82, No. 34).
2. New subsections UR.2.4.2 and UR.2.4.3 filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
3. Editorial correction of printing errors (Register 86, No. 41).
4. Amendment of subsection UR.2.6 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
5. New subsection UR.2.4.4 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
6. Change without regulatory effect of subsection UR.2.4.4 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
7. Amendment of subsection UR.2.4.1. filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
8. Amendment of subsection UR.2.4.1. and repealer of subsection UR.2.6 filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
9. Amendment of subsection UR.1.2 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
10. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4007.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of section heading (Register 88, No. 2).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
4. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).

5. Amendment of "nonretroactive" filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ Table 2*. Reduction of Volume to 60° F. Against Specific Gravity 60/60° F. for Liquefied Petroleum Gases (Abridged Table).

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of Table 1 * filed 8-16-82 (Register 82, No. 34.)
2. Renumbering of Table 1 * to Table 2 * filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection A.3 (Register 88, No. 2).
2. Amendment of subsection A.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Amendment of subsection A.2 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment of subsection A-1 filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Editorial correction of printing error in subsection A.1 heading (Register 92, No. 34).
6. Amendment of subsection A.1 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
7. Repealer of article 9 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection S.2.1 filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Change without regulatory effect (Register 88, No. 2).
3. Amendment of subsections S.1.1.3, S.1.1.5 and S.3.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
4. Editorial correction of HISTORY 3 printing error (Register 88, No. 20).
5. Amendment of subsection S.1.1.5 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
6. Amendment of subsections S.1.1.3. and S.1.1.5. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
7. Editorial correction of printing error in subsection S.2.1 (Register 92, No. 34).
8. Amendment of subsections S.1.1.2, S.1.1.3 and S.4.2 and new S.2.5 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
9. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New subsection N.4.2.3 * filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Change without regulatory effect of subsections N.1, N.4.2.3 and N.5 (Register 88, No. 2).
3. Amendment of subsections N.4.1, N.4.1.1 and N.4.2.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
4. Amendment of subsection N.4.1.1 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
5. Amendment of subsections N.4.1. and N.4.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Amendment of subsections N.1, N.4.2.2 and table 1 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
7. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of printing error in subsection T.1 (Register 92, No. 34).

2. New subsection T.2 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
3. Amendment filed 2-25-94; operative 3-28-94. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 94, No. 8).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.2.2 filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Change without regulatory effect of subsections UR.1, UR.1.2, UR.2, and UR.2.1 (Register 88, No. 2).
3. Amendment of subsections UR.2.2, and UR.2.3 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
4. Amendment of subsection UR.2.2 and new subsection UR.2.13 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
5. Repealer of subsection UR.2.10, and renumbering of subsection UR.2.13 to subsection UR.2.10 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
6. Amendment of subsections UR.2.1. and UR.2.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
7. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4008.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
3. Amendment of "nonretroactive" filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ Table 2*. Temperature Correction Factors.

§ Table 3*. Corrections For Pressure and Altitude.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of Table 2* and Table 3* filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4009. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsections A.1 and A.2 filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Amendment of subsections A.1 and A.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Repealer of article 10 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4009.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection S.2.2 filed 8-16-82 (Register 82, No. 34).
2. Amendment of subsections S.1.1.2, S.1.1.3, S.1.1.5, S.1.4.2, S.2.1, S.2.4, S.3.1 and S.4.3 filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Change without regulatory effect of subsections S.1.1.2, S.1.2.3 and S.1.3.1 (Register 88, No. 2).
4. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
5. Amendment of subsection S.2.4 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4009.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsections N.1 and N.7 filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Amendment of subsection N.4 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

3. Amendment of subsection N.4 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
4. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4009.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4009.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsections UR.2.1, UR.2.2, UR.2.5 and UR.2.6.2 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Editorial correction of printing error in subsection UR.2.2 (Register 85, No. 17).
3. Change without regulatory effect of subsection UR.2.6.3 (Register 88, No. 2).
4. Amendment of subsection UR.2.5 and UR.2.7 filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
5. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4009.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Editorial correction of printing error (Register 85, No. 17).
3. Change without regulatory effect (Register 88, No. 2).
4. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
5. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

Article 2. Specifications and Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices Not Included in Handbook 44

§ 4010. Application.

This article and Articles 2.1, 2.2 and 2.3 apply to tolerances, specifications and other technical requirements for commercial weighing and measuring devices that are not incorporated as part of National Institute of Standards and Technology's Handbook 44.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 11 and section and new article 2 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4010.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection S.1.1.3 filed 8–16–82 (Register 82, No. 34).
2. Change without regulatory effect of subsections S.1.2.3 and S.1.3.1 (Register 88, No. 2).
3. Repealer of subsections I.3.6 filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
4. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4010.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.4.1. filed 2–7–90; operative 3–9–90 (Register 90, No. 7).
2. Amendment of subsections N.4.1. filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
3. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4010.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4010.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4010.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).
3. Amendment of “nonretroactive” filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
4. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4011. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 12 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4011.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsections S.1.2, S.2.4, and S.3 (Register 88, No. 2).
2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4011.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of subsection N.6* filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4011.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4011.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

Article 2.1. Liquefied Petroleum Gas Tanks When Mounted on Highway Vehicles and Used As Measures

§ 4012. A. Application.

A.1. This code applies to liquefied petroleum gas tanks when mounted on highway vehicles and used as commercial measures. The code does not apply to the following devices:

- (a) Devices used solely for dispensing a product in connection with operations in which the amount dispensed does not affect customer charges.
- (b) Meters mounted on liquefied petroleum gas tanks (for which see code for Liquefied Petroleum Gas Meters).

A.2. See also General Code requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former article 13 to article 2.1 and amendment of subsections A.1. and A.2. filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4012.1. S. Specifications.**S.1. Design of Liquefied Petroleum Gas Tanks.**

S.1.1. Tank Requirements. Liquefied petroleum gas tanks when used as measures shall be so constructed and marked to fully comply with all requirements of the California State Department of Industrial Relations whenever such Department has jurisdiction pertaining to liquefied petroleum gas tanks.

S.1.2. Completeness of Delivery. A tank shall be so constructed that, when it is standing on a level surface, complete delivery can be made.

S.2. Design and Location of Liquefied Petroleum Gas Tank Gaging Devices.

S.2.1. General. A dip pipe shall be so designed that it will distinctly and unmistakably define a capacity point when liquid is in contact with the lowest portion of the dip pipe.

S.2.2. Number of Dip Pipes. When any tank is used as a measure, it shall be provided with one or more dip pipes, one of which shall indicate between 86 percent and 87 percent of the actual total capacity of the tank.

S.2.3. Permanently Installed. Except as provided in S.2.5. and S.2.6., dip pipes shall be permanently installed as an integral part of the tank.

S.2.3.1. Cylindrical Tanks. Dip pipes on a cylindrical tank shall be installed with the location of the internal opening of the dip pipe or dip pipes on a line with the longitudinal axis of the tank midway between the ends. For the purpose of this article, "midway" means that the internal opening of the dip pipe or dip pipes shall not be more than 6 inches from the actual midway distance between the ends of the tank.

S.2.3.2. Spherical Tanks. The dip pipe or dip pipes on a spherical tank shall be installed with the location of the internal opening or openings of the dip pipe or dip pipes in line with the vertical axis of the tank.

S.2.4. Openings. The internal opening of a dip pipe shall be not less than one-quarter inch standard iron pipe size, for at least the first two inches above the liquid, and the internal opening of the dip pipe shall be parallel to the surface of the liquid and shall approach the liquid through the vapor space when the tank is plumb and level. The maximum opening of the bleeder valve shall be a number fifty-four drill size.

S.2.5. Dip Pipes on Valves. Dip pipes which are fastened to a valve or valves and are so installed as to be removable from the container and which are less than one-quarter inch standard iron pipe size shall be permitted only on containers of five hundred pounds water capacity or less.

S.2.6. Removable Dip Pipes. Removable dip pipes may be used on containers having a capacity in excess of five hundred pounds if the opening and at least the first two inches of the dip pipe above the liquid is not less than one-quarter inch standard iron pipe size. Provision shall be made so the dip pipe or dip pipes may be sealed in place by a weights and measures official in such a manner their position cannot be changed or the dip pipe or dip pipes be removed without destroying or mutilating the seal or seals.

S.3. Marking of Capacity. Each liquefied petroleum gas tank used as a measure shall be plainly and conspicuously marked with its capacity. This marking shall appear on the rear or side of the tank, adjacent to the outage indicator valve, in letters, figures, or numerals not less than 3/4 inch in height and not less than 1/2 inch in width. On tanks having one calibrated capacity, the marking shall indicate the tank capacity to the nearest gallon and shall also indicate without qualification that the capacity is measured to the dip pipe. In the case of a liquefied petroleum gas tank having more than one calibrated capacity, the marking required by this section shall indicate the capacity applicable to the respective dip pipe.

A marking statement may be expressed in terms of percentage of fill (i.e., 86 1/2%), if followed by the required marking which states the calibrated capacity in terms of gallons to the dip pipe.

Each and all letters, figures or numerals required by this section shall be of like color or tint and shall contrast with the background of such sign or designation. The required markings shall be the responsibility of the owner of the liquefied petroleum gas tank.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection S.2.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Editorial correction of printing error in subsection S.2.6 (Register 92, No. 34).
3. Amendment deleting subsection asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4012.2. N. Notes.

N.1. Test Liquid. Water or light fuel oil shall be used as the test liquid for a liquefied petroleum gas tank.

N.2. Evaporation and Volume Change. Care shall be exercised to reduce to a minimum, evaporation losses and volume changes resulting from changes in temperature of the test liquid.

N.3. Gaging. When a liquefied petroleum gas tank is gaged to determine the proper position for an indicator or to determine what a capacity marking should be, tolerances are not applicable. The indicator shall be set and the tank capacity shall be marked as accurately as practicable.

This requirement applies to new liquefied petroleum gas tanks or following repairs or modifications that might affect tank capacities.

N.4. Adjustment and Remarking. When a liquefied petroleum gas tank is found upon test to have an error in excess of the applicable tolerance, the capacity of the liquefied petroleum gas tank shall be adjusted to agree with its marked capacity, or its marked capacity shall be changed to agree with its capacity as determined by the test.

N.5. Inspection. Weights and measures officials shall not inspect or certify liquefied petroleum gas liquid measuring devices until:

(a) A certificate of inspection covering such equipment has been issued by the Division of Industrial Safety, Department of Industrial Relations of the State of California; or

(b) In the case of equipment requiring inspection by the United States Department of Transportation, a certificate has been issued by that agency applicable to such equipment; or until

(c) Bonafide evidence has been presented that such inspection has been requested of the proper agency by the owner or operator of the equipment, and written permission from the proper agency has been received by him to operate the equipment until the requested inspection has been made. The provisions of this section shall not apply to marine terminals, natural gasoline plants, oil refineries or oil tank farms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting subsection asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4012.4. T. Tolerances.

T.1. Application. The tolerances hereinafter prescribed shall be applied to errors in excess and in deficiency.

T.2. Tolerance Values. Maintenance and acceptance tolerances shall be as shown in Table 1.

TABLE 1. MAINTENANCE AND ACCEPTANCE
TOLERANCES ON LIQUEFIED PETROLEUM
GAS TANKS

Nominal Capacity	Maintenance and Acceptance Tolerances
Gallons	Gallons
200 or less	1/2
201 to 400, inclusive	3/4
401 to 600, inclusive	1
601 to 800, inclusive	1-1/4
801 to 1,000, inclusive	1-1/2
Over 1,000	Add 1 quart per 200 gallon

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4012.5. UR. User Requirements.

UR.1. Filling. A liquefied petroleum gas tank shall stand upon a level surface during the filling.

UR.2. Delivering. During a delivery, a liquefied petroleum gas tank shall be so positioned as to assure complete emptying of tank.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting subsection asterisks filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4013. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 14 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4013.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4013.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4014. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
2. Repealer of article 15 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4014.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4014.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4014.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of Table 1 filed 11–17–83 (Register 83, No. 47).
2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4014.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
2. Repealer of article 16 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of subsection S.3.6.1 filed 8–16–82 (Register 82, No. 34).

2. Amendment filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).

3. Editorial correction of subsections S.1(c) and S.3.6.1 filed 11–17–83 (Register 83, No. 47).

4. Amendment of subsection S.3.5.2 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).

5. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).

6. Amendment filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).

7. Change without regulatory effect of subsections S.2.2.1, S.2.4, S.3.7.2 and S.3.7.3 (Register 88, No. 2).

8. Amendment filed 3–13–89; operative 4–12–89 (Register 89, No. 12).

9. Editorial correction of printing error in subsection S.3.7.3.(e) (Register 92, No. 34).

10. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).

2. Editorial correction of printing error in subsection N.1 (Register 92, No. 34).

3. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.3 filed 6–29–83; effective thirtieth day thereafter (Register 83, No. 27).

2. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4015.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction filed 8–16–82 (Register 82, No. 34).

2. Amendment filed 12–31–85; designated effective 1–1–86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).

3. Amendment filed 3–3–87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).

4. Change without regulatory effect of section heading (Register 88, No. 2).

5. Amendment filed 12–22–87; operative 1–21–88 (Register 88, No. 2).

6. Amendment of “nonretroactive” filed 8–1–91; operative 9–2–91 (Register 92, No. 9).

7. Editorial correction of printing error in definition of “nonretroactive” (Register 92, No. 34).

8. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4016. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8–1–91; operative 9–2–91 (Register 92, No. 9).

2. Repealer of article 17 and section filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4016.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4016.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11–1–94; operative 12–1–94 (Register 94, No. 44).

§ 4016.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of Table 1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Editorial correction of printing errors in Table 1 (Register 92, No. 34).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4016.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4017. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Repealer of article 18 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4017.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection S.7.1 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4017.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection N.2 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4017.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection T.1 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4018. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Repealer of article 19 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4018.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection S.3 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4018.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.1.2 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Amendment of subsection N.1.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4018.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4019. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of article heading filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Repealer of article 20 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4019.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4019.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4019.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4020. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 21 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4020.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection S.2.2.1 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4020.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4020.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4020.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Renumbering of former subsection UR.3* to subsection UR.2.2 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4021. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 22 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4021.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer and new subsection S.3.3 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Change without regulatory effect of subsection S.2.2.1 (Register 88, No. 2).
3. Amendment of subsection S.1 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).

4. Amendment of subsection S.1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Editorial correction of printing error in subsection S.1 (Register 92, No. 34).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4021.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Editorial correction of printing error in subsection N.1 (Register 92, No. 34).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4021.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4021.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4022. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 23 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4022.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection S.5.2 filed 6-29-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4022.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 24 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Adoption of subsection S.1.6. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.1.3.3 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Change without regulatory effect of subsection N.1.3.3 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection T.2 and new subsection T.2.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Change without regulatory effect of subsections T.2 and T.2.1 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4023.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 25 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsections S.1.5.2, S.1.5.3 and S.1.5.4 (Register 88, No. 2).
2. Amendment of subsection S.1.3 and new subsection S.1.3.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Editorial correction of printing error in subsections S.1.5.1, S.5, and S.6.(b) (Register 92, No. 34).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsections N.2 and N.3 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Amendment of subsections N.2. and N.3. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection T.1.2.2 and new subsections T.1.3 and T.1.3.1 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Amendment of subsections T.1.2.2., T.1.3., and T.1.3.1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Amendment of subsection T.1.2.2 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.2 filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. Amendment of subsection UR.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Amendment of subsections UR.3 and UR.4 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment of subsection UR.3 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).

5. Amendment of subsections UR.3. and UR.4. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
6. Editorial correction of printing error in subsection UR.3 (Register 92, No. 34).
7. Repealer of subsection UR.4 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
8. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4024.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment of "nonretroactive" filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Editorial correction of printing error in "nonretroactive" (Register 92, No. 34).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of article 26 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of section heading filed 8-16-82 (Register 82, No. 34).
2. Amendment of subsection S.1.4 filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Editorial correction of printing error in subsection S.1.4 (Register 85, No. 17).
4. Change without regulatory effect of subsections S.1.2.3 and S.1.3.1 (Register 88, No. 2).
5. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New subsection N.2 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Amendment of subsection N.2. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Editorial correction of printing errors in Table N.2 (Register 92, No. 34).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025.4. T. Tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection T.1.1 filed 1-21-87; operative 1-21-88 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4025.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of section heading (Register 88, No. 2).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Repealer of Article 27 (Sections 4026-4026.6, not consecutive) and new Article 27 (Sections 4026-4026.6, not consecutive) filed 12-31-85; designated effective

1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).

2. Editorial correction of printing error (Register 86, No. 41).
3. Repealer of article 27 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection S.1.6.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Amendment filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
3. Amendment of subsection S.1.6.2 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
4. Amendment of section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection N.1.2 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Amendment of subsection N.1.3 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
3. Amendment of subsections N.1.1 and N.1.2 filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
4. Amendment of section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Editorial correction of printing error in footnote (Register 92, No. 34).
6. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026.4. T. Tolerances.*

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect of subsection T.3 filed 6-23-86; effective thirtieth day thereafter (Register 86, No. 26).
2. Editorial correction of printing errors (Register 86, No. 41).
3. New subsection T.4 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Amendment of subsection T.4. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment of subsection UR.3.1 and new subsections UR.3.8-UR.3.11 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Amendment filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Editorial correction of printing error in subsection UR.3.9 (Register 92, No. 34).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4026.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Change without regulatory effect (Register 88, No. 2).
2. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Amendment of "nonretroactive" filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

Article 2.2. Electric Watt-Hour Meters

§ 4027. A. Application.

A.1. This code applies to electrical energy sub-meters used as commercial measuring devices. Sub-meters are installed in mobile home parks, apartment houses, shopping centers and similar establishments which purchase electric service from a serving utility by a master meter

and distribute the service to tenants through a sub-metered service system.

A.2. See also General Code requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Renumbering of article heading and amendment of section deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4027.1. S. Specifications.

S.1. Construction and Workmanship. The meter shall be substantially constructed of good material in a workmanlike manner. Each meter shall conform to all applicable standards of the National Electrical Manufacturers Association and the Edison Electric Institute.

S.2. Cover. The cover of the meter shall be sufficiently strong to withstand ordinary usage. It shall be dustproof, waterproof, and prevent access to the interior without destroying the security seal.

S.3. Terminals. The terminals of the meter shall be arranged so that the possibility of short circuits in removing or replacing the cover, making connections and adjusting the meter is minimized.

S.4. Equipment Grounding. Exposed non-current carrying metal parts of fixed equipment, metal boxes, cabinets and fittings which are not electrically connected to grounded equipment, shall be grounded as required by the National Electrical Code, Article 250.

S.5. Provision for Sealing.

S.5.1. Sealing. Provisions shall be made for applying a security seal to the meter cover, meter sealing ring, and terminal block cover.

S.5.2. Meter Enclosure. Meter enclosures shall be so designed that the cover may be sealed. Provision shall be made for reading the meter without destroying the seal.

S.5.3. Overload Protector Enclosure. Thermal overload protector enclosures shall be designed to facilitate sealing. A provision shall be made for resetting circuit breakers or replacing fuses without destroying the seal.

S.6. Meter Identification. Each meter shall have the following information legibly marked on the front of the nameplate or register:

- (a) Manufacturer's name, type designation, and serial number.
- (b) Voltage rating.
- (c) Test amperes (TA).
- (d) Maximum amperes (CL).
- (e) Watt-hour or disk constant (kh).
- (f) Register ratio (Rr) and multiplier (if 10 or larger).
- (g) Frequency rating (Hz).
- (h) Number of meter elements (polyphase).
- (i) Ratio or rating of auxiliary devices.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4027.2. N. Notes.

N.1. Starting Watts. The rotor for a meter shall rotate continuously when a load is applied equal to 0.5 amperes.

N.2. Meter Tests. Meters shall be tested at full load and light load:

(a) Full load test shall not be less than the test amperes (TA) of the meter.

(b) Light load test amperes (TA) shall be 5 to 10 percent of the meter TA. However, it may be 20 percent or 5 amps, whichever is less, of the TA when testing a 240-volt, 3-wire, single phase meter with an unbalanced load (energizing a single current coil).

N.3. Test Revolutions. Full and light load tests shall require 8 or more revolutions of the test standard and at least 1 revolution of the meter under test.

N.4. Creep Test. A meter disk that creeps more than one revolution shall be removed from service.

N.5. Meter Register. A meter register shall clearly indicate the number of kilowatt-hours measured by the meter. The register ratio must be indicated on the front of registers that are not an integral part of the meter nameplate.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4027.4. T. Tolerances.

T.1. Application to Underregistration and to Overregistration. The following prescribed tolerances shall be applied to errors of underregistration and errors of overregistration.

T.2. Tolerance Values. Maintenance and acceptance tolerances for electric watt-hour meters shall be as follows for full and light load tests:

(a) Maintenance tolerance shall not exceed 2 percent for full and light loads.

(b) Acceptance tolerance shall not exceed 1 percent for full and light loads. Acceptance tolerances shall be applied to new and rebuilt meters before they have been placed in service.

T.3. Meters with Instrument Transformers. Where instrument transformers are used, the provisions of this section shall apply to the metering equipment as a whole.

NOTE: Authority cited: Sections 12027 and 1207, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4027.5. UR. User Requirements.

UR.1. Selection Requirements.

UR.1.1. Meter Class. The meter class shall equal or exceed the total capacity in amperes of the thermal overload protectors.

UR.1.2. Suitability of Equipment. A meter shall be suitable for use on its electrical system. A 3-wire single phase load which is connected to a 120-208 volt network service shall be metered by a two-stator meter.

UR.2. Installation Requirements.

UR.2.1. Nondomestic Meter Test Facilities. All nondomestic meters shall be provided with the same test facilities that are required of a similar meter by the serving utility.

UR.2.2. Test Blocks. All three-phase self contained meter installations shall be equipped with test blocks, that are approved by the serving utility, for safe meter testing.

UR.2.3. Test Switches. All meter installations that are equipped with current or potential transformers, or both, shall have test switches installed, that are approved by the serving utility, for safe meter testing.

UR.2.4. Circuit Closing Devices. All self-contained meter installations that cannot accept a short interruption of the electrical service, for the purpose of testing the meter, shall be equipped with a manual circuit closing device as approved by the serving utility. Automatic circuit closing devices shall not be used on any meter installation.

UR.2.5. Thermal Overload Protectors. The main circuit breaker or main switch and fuses and their auxiliary equipment shall be installed in the load service near its entrance as supplied to the tenant. It is intended to constitute the main control and means of cut-off for the supply to the tenant.

UR.3. Use Requirements.

UR.3.1. Location of Meter. Each meter shall be accessible by an unobstructed entrance or passageway not less than two feet in width and six and one-half feet high. A suitable unobstructed standing space of at least 30 inches wide, 36 inches deep and six and one-half feet high shall be maintained in front of the meter to allow for installation, testing and reading.

UR.3.2. Meter Heights. Meters shall be located not more than 75 inches and not less than 30 inches above the ground or standing surface. The meter height shall be measured to its axis.

UR.3.3. Metered Circuits (Load Service). All electricity used by a tenant shall be taken exclusively from the load service of one meter. All electrical circuits from the meter shall serve only one space, lot, building, room, suite, stall or premise occupied by the tenant and shall be capable of being used at the discretion of the tenant.

UR.3.4. Unmetered Circuits (Line Service). The tenants' electrical circuit shall not be taken from the line terminals of the meter, meter socket or line service. The landlord may utilize this service.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4027.6. Definitions of Terms.

The terms defined here have a special and technical meaning when used in the Electric Watt-hour Meter Code.

ampere. The ampere is the practical unit of electric current. It is the quantity of current caused to flow by a difference of potential of one volt through a resistance of one ohm. One ampere is one coulomb of charge per second.

creep. Creep is when the meter disk rotates continuously with potential applied and the load terminals open circuited.

current. Current is the intensity of the electron flow past any one point in the circuit. Its measurement is in coulombs per second or amperes.

kilowatt. A kilowatt is 1,000 watts.

kilowatt-hour (Kwhr). A kilowatt-hour is 1,000 watt-hours.

landlord. A corporation and/or the person or persons who own the electrical energy sub-meters and line service.

line service. The service conductors connecting the master meter to the tenant's meter and owned by the landlord.

load service. The service conductors connecting the tenant's meter to their electrical loads.

master meter. An electric watt-hour meter owned, maintained and read for billing purposes by the serving utility. All the electrical energy served to a sub-metered service system is recorded by the master meter.

maximum amperes (class or CL). The manufacturer's designated maximum amperes which a meter can measure continuously without damage or exceeding limits of accuracy. Class or the designation CL associated with its numerical value indicates maximum amperes.

meter. An electric watt-hour meter designed to measure and register the integral of an electrical quantity with respect to time.

modern meter. A meter whose disk has a magnetic bearing system.

nonretroactive. Nonretroactive requirements are enforceable only with respect to equipment that is manufactured or placed in commercial service after the effective date. *Nonretroactive requirements are printed herein italic type.* (See Handbook 44, Section 1.10., G-A.6.)

ohm. The ohm is a practical unit of electrical resistance. It is the resistance which allows one ampere to flow when the impressed potential is one volt.

percent registration. Percent registration is calculated as follows:

$$\text{Percent Registration} = \frac{\text{Kwhr measured by METER}}{\text{Kwhr measured by STANDARD}} \times 100$$

power factor. Cosine of the angle of lag or lead of the voltage and current.

register ratio. The number of revolutions of the gear meshing with the worm or pinion on the rotating element for one revolution of the first dial pointer.

serving utility. Serving utility, as used in this code, means the utility or company who sells electrical energy to landlords for resale.

sub-meter. An electric watt-hour meter owned, maintained and read for billing purposes by the landlord. All the electrical energy registered is used by the tenant.

tenant. The person or persons served electrical energy from a submetered service system.

test amperes (TA). The manufacturer's recommended full load test amperage.

test block. The test block facilitates safe meter testing by disconnecting the meter from the circuit without interrupting the service to the tenant.

thermal overload protector. A circuit breaker or fuse which establishes and limits automatically the maximum current that can be conducted in a circuit.

unity power factor. Unity power factor exists in alternating-current circuits when the voltage and current reverse at the same instant.

volt. A volt is the practical unit of electromotive force. One volt will cause one ampere to flow when impressed across a resistance of one ohm.

watt. A watt is the practical unit of active power and is defined as the rate at which energy is delivered to a circuit. It is the power expended when a direct current of one ampere flows through a resistance of one ohm. In an alternating-current circuit, the power in watts is volts times amperes multiplied by the circuit power factor.

watt-hour. The watt-hour is the total or integrated amount of energy delivered in one hour to a circuit in which the steady or average rate at which energy is expended is one watt.

watt-hour constant (disk constant). The watt-hour constant of a meter is the registration of one revolution of its disk expressed in watt-hours. The constant is usually identified by the symbol K_h .

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Amendment deleting asterisks and amending nonretroactive filed 11-1-94; operative 12-1-94 (Register 94, No. 44).
3. Editorial correction restoring load service (Register 94, No. 44).

§ 4028. A. Application.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New article 29 (sections 4028-4028.5) filed 12-27-84; designated effective 1-1-85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
2. Amendment of subsection A.1 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Change without regulatory effect of subsection A.1 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
4. Amendment of subsection A.1. filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
5. Repealer of article 29 and section filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4028.1. S. Specifications.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Editorial correction of printing error in subsection S.3.1 (Register 85, No. 17).
2. Amendment of subsections S.1.2 and new subsections S.5.3 and S.5.4 filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4028.2. N. Notes.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Change without regulatory effect of subsections N.1.2, N.1.3 and N.1.4 pursuant to section 100, title 1, California Code of Regulations, filed 9-1-88 (Register 88, No. 37).
3. New subsections N.1.5 and N.1.5.1 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
4. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4028.4. T. Tolerance.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

2. Amendment of subsection T.7.3.1 filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4028.5. UR. User Requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Amendment of subsection UR.4 filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
3. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4028.6. D. Definitions of Terms.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 12-22-87; operative 1-21-88 (Register 88, No. 2).
2. Repealer filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

Article 2.3. Carbon Dioxide Liquid-Measuring Devices

§ 4029. A. Application.

A.1. This code applies to carbon dioxide liquid measuring devices used for the measurement of liquid carbon dioxide.

A.2. This code does not apply to devices used solely for dispensing a product in connection with operations in which the amount dispensed does not affect customer charges.

A.3. The General Code provisions also apply to this device.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New article 30 (sections 4029-4029.6) filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Renumbering of article heading and amendment of section deleting asterisks and amending subsection A.3. filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4029.1. S. Specifications.

S.1 Design of indicating and recording elements and of recorded representations.

S.1.1. Primary elements.

S.1.1.1. General. A device shall be equipped with a primary indicating element and may also be equipped with a primary recording element.

S.1.1.2. Units. A device shall indicate and record, if equipped to record, its deliveries in terms of pounds or kilograms; or decimal subdivisions or multiples thereof.

S.1.1.3. Value of Smallest Unit. The value of the smallest unit of indicated delivery, and recorded delivery, if the device is equipped to record, shall not exceed the equivalent of:

(a) for small delivery devices:

- (1) one pound, or
- (2) one kilogram.

(b) for large delivery devices:

- (1) ten pounds, or
- (2) ten kilograms.

S.1.1.4. Advancement of Indicating and Recording Elements. Primary indicating and recording elements shall be susceptible of advancement only by the normal operation of the device. However, a device may be cleared by advancing its elements to zero, but only if:

(a) the advancing movement, once started, cannot be stopped until zero is reached, or

(b) in the case of indicating elements only, such elements are automatically obscured until the elements reach the correct zero position.

S.1.1.5. Return to Zero. Primary indicating and recording elements shall be readily returnable to a definite zero indication. Means shall be

provided to prevent the return of primary indicating elements and of primary recording elements beyond their correct zero position.

S.1.2. Graduations.

S.1.2.1. Length. Graduations shall be so varied in length that they may be conveniently read.

S.1.2.2. Width. In any series of graduations, the width of a graduation shall in no case be greater than the width of the clear interval between graduations. The width of main graduations shall be not more than 50 percent greater than the width of subordinate graduations. Graduations shall in no case be less than 0.008 inch in width.

S.1.2.3. Clear Interval Between Graduations. The clear interval shall be not less than 0.04 inch. If the graduations are not parallel, the measurement shall be made:

(a) along the line of relative movement between the graduations at the end of the indicator, or

(b) if the indicator is continuous, at the point of widest separation of the graduations.

(See also S.1.3.6.)

S.1.3. Indicators.

S.1.3.1. Symmetry. The index of an indicator shall be of the same shape as the graduations at least throughout that portion of its length associated with the graduations.

S.1.3.2. Length. The index of an indicator shall reach to the finest graduations with which it is used, unless the indicator and the graduations are in the same plane, in which case the distance between the end of the indicator and the ends of the graduations, measured along the line of the graduations, shall be not more than 0.04 inch.

S.1.3.3. Width. The width of the index of the indicator in relation to the series of graduations with which it is used shall be not greater than:

(a) the width of the widest graduation, and

(b) the width of the minimum clear interval between graduations.

When the index of an indicator extends along the entire length of a graduation, that portion of the index of the indicator that may be brought into coincidence with the graduation shall be of the same width throughout the length of the index that coincides with the graduation.

S.1.3.4. Clearance. The clearance between the index of an indicator and the graduations shall in no case be more than 0.06 inch.

S.1.3.5. Parallax. Parallax effects shall be reduced to the practicable minimum.

S.1.3.6. Travel of Indicator. If the most sensitive element of the primary indicating element utilizes an indicator and graduations, the relative movement of these parts corresponding to the smallest indicated value shall be no less than 0.20 inch.

S.1.4. Computing-Type Devices.

S.1.4.1. Printed Ticket. Any printed ticket issued by a device of the computing type on which there is printed the total computed price shall have printed clearly thereon also the total quantity of the delivery and the price per unit.

S.1.4.2. Money-Value Computations. Money-value computations shall be of the full-computing type in which the money value at a single unit price, or at each of a series of unit prices, shall be computed for every delivery within either the range of measurement of the device or the range of the computing elements, whichever is less.

The total price shall be computed on the basis of the quantity indicated when the value of the smallest division indicated is equal to or less than the value specified in S.1.1.3.

S.1.4.3. Money-Values, Mathematical Agreement. Any digital money-value indication and any recorded money value on a computing-type device shall be in mathematical agreement with its associated quantity indication or representation to within one cent of money value.

S.2. Design of Measuring Elements.

S.2.1. Vapor Elimination. A measuring system shall be equipped with an effective vapor eliminator or other effective means to prevent the measurement of vapor that will cause errors of the applicable tolerances.

S.2.2. Reverse Flow Measurement. Effective means, automatic in operation, shall be installed to prevent reverse flow measurement.

S.2.3. Maintenance of Liquid State. A device shall be so designed that the product being measured will remain in a liquid state during passage through the device.

S.2.4. Automatic Temperature or Density Compensation. A volumetric device shall be equipped with automatic means for adjusting the indication and registration of the measured quantity of the product to the quantity of the measurement in terms of pounds.

S.2.5. Provision for Sealing. Adequate provision shall be made for applying security seals in such a manner that no adjustment or interchange may be made of:

(a) any measurement element.

(b) any adjustable element for controlling delivery rate when such rate tends to affect the accuracy of deliveries, and

(c) any automatic temperature or density compensating system.

Any adjusting mechanism shall be readily accessible for purposes of affixing a security seal.

S.2.6. Mass Flow Meters. An automatic means to determine and correct for changes in product density shall be incorporated in any mass flow metering system that is affected by changes in the density of the product being measured.

S.3. Design of Discharge Lines and Discharge Line Valves.

S.3.1. Diversion of Measured Liquid. No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the device or the discharge line therefrom, except that a manually controlled outlet that may be opened for purging or draining the measuring system shall be permitted. Effective means shall be provided to prevent the passage of liquid through any such outlet during normal operation of the device and to indicate clearly and unmistakably when the valve controls are so set as to permit passage of liquid through such outlet.

S.3.2. Discharge Hose. The discharge hose of a measuring system shall be of a wet hose type with a shutoff valve at its outlet end.

S.4. Marking Requirements.

S.4.1. Limitation of Use. If a measuring system is intended to measure accurately only liquids having particular properties, or to measure accurately only under specific installation or operating conditions, or to measure accurately only when used in conjunction with specific accessory equipment, these limitations shall be clearly and permanently marked on the device.

S.4.2. Discharge Rates. A meter shall be marked to show its designed maximum and minimum discharge rates. The marked minimum discharge rate shall not exceed 20 percent of the maximum discharge rate.

S.5. Level Condition. On-Board Weighing Systems. Provision shall be made for automatically inhibiting the delivery of liquid carbon dioxide when the vehicle is out of level beyond the limit required for the performance to be within the applicable tolerances.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4029.2. N. Notes.

N.1. Test Liquid. The test liquid shall be carbon dioxide in a compressed liquid state.

N.2. Vaporization and Volume Change. Care shall be exercised to reduce vaporization and volume changes to a minimum. When testing by weight, the weigh tank and transfer systems shall be precooled to liquid temperature prior to the start of the test to avoid the venting of vapor from the vessel being weighed.

N.3. Test Drafts.

N.3.1. Gravimetric Test. Weight test drafts shall be equal to at least the amount delivered by the device in two minutes at its maximum discharge rate.

N.3.2. Transfer Standard Test. When comparing a meter with a calibrated transfer standard, the test draft shall be equal to at least the amount delivered by the device in two minutes at its maximum discharge rate.

N.3.3. Volumetric Prover Test Drafts. Test drafts shall be equal to at least the amount delivered in one minute at normal discharge rate.

N.4. Testing Procedures.

N.4.1. Normal Tests. The "normal" test of a device shall be made at the maximum discharge flow rate developed under the conditions of installation. Any additional tests conducted at flow rates down to and including one-half of the sum of the maximum discharge flow rate and the rated minimum discharge flow rate shall be considered normal tests.

N.4.2. Special Tests. Any test except as set forth in N.4.1. shall be considered a special test. Tests shall be conducted, if possible, to evaluate any special elements or accessories attached to or associated with the device. A device shall be tested at a minimum discharge rate of:

(a) not less than the minimum rated capacity or 20 percent of the maximum rated discharge rate of the device, whichever is less, or

(b) the lowest discharge rate practicable under the conditions of installation.

"Special" tests may be conducted to develop any characteristic of the device anticipated under the conditions of installation as circumstances require.

N.4.3. Density. Temperature and pressure of the metered test liquid shall be measured during the test for the determination of density or volume correction when applicable. Table 1, contained in this Article, shall apply.

N.4.4. Automatic Temperature or Density Compensation. If a device is equipped with an automatic temperature or density compensator, the compensator shall be tested by comparing the quantity indicated or recorded by the device (with the compensator connected and operating) with the actual delivered quantity. Table 1, contained in this Article, shall apply.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4029.4. T. Tolerances.

T.1. Application.

T.1.1. To Underregistration and to Overregistration. The tolerances hereinafter prescribed shall be applied to errors of underregistration and errors of overregistration.

T.2. Tolerance Values.

T.2.1. On Normal Tests. The maintenance tolerance on "normal" tests shall be two and one-half percent (2-1/2%) of the indicated quantity. The acceptance tolerances shall be one and one-half percent (1-1/2%) of the indicated quantity.

T.2.2. On Special Tests. The maintenance and acceptance tolerance on "special" tests shall be two and one-half percent (2-1/2%) of the indicated quantity.

T.3. On Tests Using Transfer Standards. To the basic tolerance values that would otherwise be applied, there shall be added an amount equal to two times the standard deviation of the applicable transfer standard when compared to a basic reference standard.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4029.5. UR. User Requirements.

UR.1. Installation Requirements.

UR.1.1. Discharge Rate. A device shall be so installed that the actual maximum discharge rate will not exceed the rated maximum discharge

rate. If necessary, means for flow regulation shall be incorporated in the installation.

UR.1.2. Length of Discharge Hose. The discharge hose shall be of such a length and design as to keep vaporization of the liquid to a minimum.

UR.1.3. Maintenance of Liquid State. A device shall be so installed and operated that the product being measured shall remain in the liquid state during passage through the meter.

UR.2. Use Requirements.

UR.2.1 Return of Indicating and Recording Elements to Zero. The primary indicating elements (visual) and the primary recording elements shall be returned to zero immediately before each delivery.

UR.2.2. Condition of Discharge System. The discharge hose, up to the valve at the end of the discharge hose, shall be completely filled and pre-cooled to liquid temperatures before a "zero" condition is established and prior to the start of a commercial delivery. Means shall be provided to fill the discharge hose with liquid prior to the start of a delivery.

UR.2.3. Vapor Equalization Line. A vapor equalization line shall not be used during a metered delivery unless the quantity of vapor displaced from the buyer's tank to the seller's tank is deducted from the metered quantity. Table 1, contained in this Article, shall apply.

UR.2.4. Temperature or Density Compensation.

UR.2.4.1. Use of Automatic Temperature or Density Compensators. Devices equipped with an automatic temperature or density compensator shall have the compensator connected, operable, and in use at all times. Such automatic temperature or density compensator may not be removed.

UR.2.4.2. Tickets or Invoices. Any written invoice or printed ticket based on a reading of a device that is equipped with an automatic temperature or density compensator shall have shown thereon that the quantity delivered has been temperature or density compensated.

UR.2.5. Ticket in Printing Device. A ticket shall not be inserted into a device equipped with a ticket printer until immediately before a delivery is begun, and in no case shall a ticket be in the device when the vehicle is in motion while on a public street, highway, or thoroughfare.

UR.2.6. Sale by Weight. All quantity determinations shall be made by means of an approved and sealed weighing or measuring device. All sales

shall be stated in pounds.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

§ 4029.6. Definitions of Terms.

The terms defined here have a special and technical meaning when used in the Code for Carbon Dioxide Liquid-Measuring Devices.

automatic temperature or density compensation. The use of integrated or ancillary equipment to obtain, from the output of a volumetric meter, an equivalent mass indication.

carbon dioxide liquid-measuring device. A system including a mechanism or machine of (a) the meter or mass-flow type, or (b) a weighing type of device mounted on a vehicle designed to measure and deliver liquid carbon dioxide. Means may be provided to indicate automatically, for one of a series of unit prices, the total money value of the quantity measured.

large-delivery devices. Devices used primary for single deliveries greater than 1,000 pounds or 500 kilograms.

mass flow meter. A device that measures the mass of a product flowing through the system. The mass measurement may be determined directly from the effects of mass on the sensing unit or may be inferred by measuring the properties of the product, such as the volume, density, temperature, or pressure, and displaying the quantity in mass units.

small delivery device. Any device other than a large-delivery device.

transfer standard. A measurement system designed for use in proving and testing carbon dioxide liquid-measuring devices.

vapor equalization credit. The quantity deducted from the metered quantity of liquid carbon dioxide when a vapor equalizing line is used to facilitate the transfer of liquid during a metered delivery.

vapor equalization line. A hose or pipe connected from the vapor space of the seller's tank to the vapor space of the buyer's tank that is used to equalize the pressure during a delivery.

wet-hose type. A type of device in which it is intended that the discharge hose be completely filled prior to each commercial delivery.

TABLE I

Temp Deg F	Pressure		Liquid Density		Vapor Density		Vap Dis %
	PSIA	PSIG	lb/gal	(lb-oz)/gal	lb/cu ft	lb/gal	
-30.00	177.89	163.19	9.127	9 - 2.0	1.989	0.266	2.9
-29.75	178.75	164.05	9.122	9 - 2.0	1.999	0.267	2.9
-29.50	179.62	164.92	9.117	9 - 1.9	2.008	0.268	2.9
-29.25	180.49	165.79	9.113	9 - 1.8	2.018	0.270	3.0
-29.00	181.36	166.67	9.108	9 - 1.7	2.028	0.271	3.0
-28.75	182.24	167.54	9.103	9 - 1.7	2.038	0.272	3.0
-28.50	183.12	168.42	9.098	9 - 1.6	2.048	0.274	3.0
-28.25	184.00	169.31	9.094	9 - 1.5	2.058	0.275	3.0
-28.00	184.89	170.19	9.089	9 - 1.4	2.067	0.276	3.0
-27.75	185.78	171.08	9.084	9 - 1.3	2.077	0.278	3.1
-27.50	186.67	171.98	9.080	9 - 1.3	2.087	0.279	3.1
-27.25	187.57	172.87	9.075	9 - 1.2	2.098	0.280	3.1
-27.00	188.47	173.77	9.070	9 - 1.1	2.108	0.282	3.1
-26.75	189.37	174.67	9.065	9 - 1.0	2.118	0.283	3.1
-26.50	190.28	175.58	9.061	9 - 1.0	2.128	0.284	3.1
-26.25	191.18	176.49	9.056	9 - 0.9	2.138	0.286	3.2
-26.00	192.10	177.40	9.051	9 - 0.8	2.148	0.287	3.2
-25.75	193.01	178.32	9.046	9 - 0.7	2.159	0.289	3.2
-25.50	193.93	179.23	9.041	9 - 0.7	2.169	0.290	3.2
-25.25	194.85	180.16	9.037	9 - 0.6	2.179	0.291	3.2
-25.00	195.78	181.08	9.032	9 - 0.5	2.190	0.293	3.2
-24.75	196.70	182.01	9.027	9 - 0.4	2.200	0.294	3.3
-24.50	197.64	182.94	9.022	9 - 0.4	2.211	0.296	3.3
-24.25	198.57	183.87	9.017	9 - 0.3	2.221	0.297	3.3
-24.00	199.51	184.81	9.013	9 - 0.2	2.232	0.298	3.3
-23.75	200.45	185.75	9.008	9 - 0.1	2.243	0.300	3.3
-23.50	201.39	186.70	9.003	9 - 0.0	2.253	0.301	3.3
-23.25	202.34	187.64	8.998	9 - 0.0	2.264	0.303	3.4
-23.00	203.29	188.60	8.993	8 - 15.9	2.275	0.304	3.4
-22.75	204.25	189.55	8.989	8 - 15.8	2.286	0.306	3.4
-22.50	205.20	190.51	8.984	8 - 15.7	2.296	0.307	3.4
-22.25	206.16	191.47	8.979	8 - 15.7	2.307	0.308	3.4
-22.00	207.13	192.43	8.974	8 - 15.6	2.318	0.310	3.5
-21.75	208.09	193.40	8.969	8 - 15.5	2.329	0.311	3.5
-21.50	209.06	194.37	8.964	8 - 15.4	2.340	0.313	3.5
-21.25	210.04	195.34	8.959	8 - 15.4	2.351	0.314	3.5
-21.00	211.02	196.32	8.955	8 - 15.3	2.362	0.316	3.5
-20.75	212.00	197.30	8.950	8 - 15.2	2.374	0.317	3.5
-20.50	212.98	198.28	8.945	8 - 15.1	2.385	0.319	3.6
-20.25	213.97	199.27	8.940	8 - 15.0	2.396	0.320	3.6
-20.00	214.96	200.26	8.935	8 - 15.0	2.407	0.322	3.6
-19.75	215.95	201.26	8.930	8 - 14.9	2.419	0.323	3.6
-19.50	216.95	202.25	8.925	8 - 14.8	2.430	0.325	3.6
-19.25	217.95	203.25	8.920	8 - 14.7	2.441	0.326	3.7
-19.00	218.95	204.26	8.915	8 - 14.6	2.453	0.328	3.7
-18.75	219.96	205.27	8.911	8 - 14.6	2.464	0.329	3.7
-18.50	220.97	206.28	8.906	8 - 14.5	2.476	0.331	3.7
-18.25	221.99	207.29	8.901	8 - 14.4	2.488	0.333	3.7
-18.00	223.01	208.31	8.896	8 - 14.3	2.499	0.334	3.8
-17.75	224.03	209.33	8.891	8 - 14.3	2.511	0.336	3.8
-17.50	225.05	210.36	8.886	8 - 14.2	2.523	0.337	3.8
-17.25	226.08	211.38	8.881	8 - 14.1	2.534	0.339	3.8
-17.00	227.11	212.42	8.876	8 - 14.0	2.546	0.340	3.8
-16.75	228.15	213.45	8.871	8 - 13.9	2.558	0.342	3.9
-16.50	229.18	214.49	8.866	8 - 13.9	2.570	0.344	3.9
-16.25	230.23	215.53	8.861	8 - 13.8	2.582	0.345	3.9
-16.00	231.27	216.58	8.856	8 - 13.7	2.594	0.347	3.9
-15.75	232.32	217.62	8.851	8 - 13.6	2.606	0.348	3.9
-15.50	233.37	218.68	8.846	8 - 13.5	2.618	0.350	4.0
-15.25	234.43	219.73	8.841	8 - 13.5	2.630	0.352	4.0
-15.00	235.49	220.79	8.836	8 - 13.4	2.643	0.353	4.0
-14.75	236.55	221.86	8.831	8 - 13.3	2.655	0.355	4.0
-14.50	237.62	222.92	8.826	8 - 13.2	2.667	0.357	4.0
-14.25	238.69	223.99	8.821	8 - 13.1	2.680	0.358	4.1

Temp Deg F	Pressure		Liquid Density		Vapor Density		Vap Dis %
	PSIA	PSIG	lb/gal	(lb-oz)/gal	lb/cu ft	lb/gal	
-14.00	239.76	225.07	8.816	8 - 13.1	2.692	0.360	4.1
-13.75	240.84	226.14	8.811	8 - 13.0	2.704	0.362	4.1
-13.50	241.92	227.22	8.806	8 - 12.9	2.717	0.363	4.1
-13.25	243.00	228.31	8.801	8 - 12.8	2.729	0.365	4.1
-13.00	244.09	229.39	8.796	8 - 12.7	2.742	0.367	4.2
-12.75	245.18	230.49	8.791	8 - 12.7	2.755	0.368	4.2
-12.50	246.28	231.58	8.786	8 - 12.6	2.767	0.370	4.2
-12.25	247.37	232.68	8.781	8 - 12.5	2.780	0.372	4.2
-12.00	248.48	233.78	8.776	8 - 12.4	2.793	0.373	4.3
-11.75	249.58	234.89	8.771	8 - 12.3	2.806	0.375	4.3
-11.50	250.69	236.00	8.765	8 - 12.2	2.819	0.377	4.3
-11.25	251.80	237.11	8.760	8 - 12.2	2.832	0.379	4.3
-11.00	252.92	238.22	8.755	8 - 12.1	2.845	0.380	4.3
-10.75	254.04	239.34	8.750	8 - 12.0	2.858	0.382	4.4
-10.50	255.16	240.47	8.745	8 - 11.9	2.871	0.384	4.4
-10.25	256.29	241.60	8.740	8 - 11.8	2.884	0.386	4.4
-10.00	257.42	242.73	8.735	8 - 11.8	2.897	0.387	4.4
-9.75	258.56	243.86	8.730	8 - 11.7	2.911	0.389	4.5
-9.50	259.70	245.00	8.725	8 - 11.6	2.924	0.391	4.5
-9.25	260.84	246.14	8.719	8 - 11.5	2.937	0.393	4.5
-9.00	261.98	247.29	8.714	8 - 11.4	2.951	0.394	4.5
-8.75	263.13	248.44	8.709	8 - 11.3	2.964	0.396	4.5
-8.50	264.29	249.59	8.704	8 - 11.3	2.978	0.398	4.6
-8.25	265.44	250.75	8.699	8 - 11.2	2.991	0.400	4.6
-8.00	266.60	251.91	8.694	8 - 11.1	3.005	0.402	4.6
-7.75	267.77	253.07	8.688	8 - 11.0	3.019	0.404	4.6
-7.50	268.93	254.24	8.683	8 - 10.9	3.032	0.405	4.7
-7.25	270.11	255.41	8.678	8 - 10.8	3.046	0.407	4.7
-7.00	271.28	256.59	8.673	8 - 10.8	3.060	0.409	4.7
-6.75	272.46	257.76	8.668	8 - 10.7	3.074	0.411	4.7
-6.50	273.64	258.95	8.662	8 - 10.6	3.088	0.413	4.8
-6.25	274.83	260.13	8.657	8 - 10.5	3.102	0.415	4.8
-6.00	276.02	261.32	8.652	8 - 10.4	3.116	0.417	4.8
-5.75	277.21	262.52	8.647	8 - 10.3	3.130	0.418	4.8
-5.50	278.41	263.72	8.641	8 - 10.3	3.144	0.420	4.9
-5.25	279.61	264.92	8.636	8 - 10.2	3.159	0.422	4.9
-5.00	280.82	266.12	8.631	8 - 10.1	3.173	0.424	4.9
-4.75	282.03	267.33	8.626	8 - 10.0	3.187	0.426	4.9
-4.50	283.24	268.55	8.620	8 - 9.9	3.202	0.428	5.0
-4.25	284.46	269.76	8.615	8 - 9.8	3.216	0.430	5.0
-4.00	285.68	270.98	8.610	8 - 9.8	3.231	0.432	5.0
-3.75	286.90	272.21	8.604	8 - 9.7	3.245	0.434	5.0
-3.50	288.13	273.44	8.599	8 - 9.6	3.260	0.436	5.1
-3.25	289.37	274.67	8.594	8 - 9.5	3.275	0.438	5.1
-3.00	290.60	275.91	8.589	8 - 9.4	3.289	0.440	5.1
-2.75	291.84	277.15	8.583	8 - 9.3	3.304	0.442	5.1
-2.50	293.09	278.39	8.578	8 - 9.2	3.319	0.444	5.2
-2.25	294.33	279.64	8.573	8 - 9.2	3.334	0.446	5.2
-2.00	295.58	280.89	8.567	8 - 9.1	3.349	0.448	5.2
-1.75	296.84	282.14	8.562	8 - 9.0	3.364	0.450	5.3
-1.50	298.10	283.40	8.556	8 - 8.9	3.379	0.452	5.3
-1.25	299.36	284.67	8.551	8 - 8.8	3.395	0.454	5.3
-1.00	300.63	285.93	8.546	8 - 8.7	3.410	0.456	5.3
-0.75	301.90	287.21	8.540	8 - 8.6	3.425	0.458	5.4
-0.50	303.18	288.48	8.535	8 - 8.6	3.440	0.460	5.4
-0.25	304.46	289.76	8.530	8 - 8.5	3.456	0.462	5.4
0.00	305.74	291.74	8.524	8 - 8.4	3.471	0.464	5.4
0.25	307.03	292.33	8.519	8 - 8.3	3.487	0.466	5.5
0.50	308.32	293.62	8.513	8 - 8.2	3.503	0.468	5.5
0.75	309.61	294.92	8.508	8 - 8.1	3.518	0.470	5.5
1.00	310.91	296.21	8.502	8 - 8.0	3.534	0.472	5.6
1.25	312.21	297.52	8.497	8 - 8.0	3.550	0.475	5.6
1.50	313.52	298.82	8.491	8 - 7.9	3.566	0.477	5.6
1.75	314.83	300.13	8.486	8 - 7.8	3.582	0.479	5.6

Temp Deg F	Pressure		Liquid Density		Vapor Density		Vap Dis %
	PSIA	PSIG	lb/gal	(lb-oz)/gal	lb/cu ft	lb/gal	
2.00	316.15	301.45	8.480	8 -- 7.7	3.598	0.481	5.7
2.25	317.46	302.77	8.475	8 -- 7.6	3.614	0.483	5.7
2.50	318.79	304.09	8.469	8 -- 7.5	3.630	0.485	5.7
2.75	320.11	305.42	8.464	8 -- 7.4	3.646	0.487	5.8
3.00	321.45	306.75	8.458	8 -- 7.3	3.662	0.490	5.8
3.25	322.78	308.08	8.453	8 -- 7.2	3.679	0.492	5.8
3.50	324.12	309.42	8.447	8 -- 7.2	3.695	0.494	5.8
3.75	325.46	310.77	8.442	8 -- 7.1	3.712	0.496	5.9
4.00	326.81	312.11	8.436	8 -- 7.0	3.728	0.498	5.9
4.25	328.16	313.46	8.431	8 -- 6.9	3.745	0.501	5.9
4.50	329.52	314.82	8.425	8 -- 6.8	3.761	0.503	6.0
4.75	330.88	316.18	8.420	8 -- 6.7	3.778	0.505	6.0
5.00	332.24	317.54	8.414	8 -- 6.6	3.795	0.507	6.0
5.25	333.61	318.91	8.408	8 -- 6.5	3.812	0.510	6.1
5.50	334.98	320.28	8.403	8 -- 6.4	3.829	0.512	6.1
5.75	336.35	321.66	8.397	8 -- 6.4	3.846	0.514	6.1
6.00	337.73	323.04	8.392	8 -- 6.3	3.863	0.516	6.2
6.25	339.12	324.42	8.386	8 -- 6.2	3.880	0.519	6.2
6.50	340.51	325.81	8.380	8 -- 6.1	3.897	0.521	6.2
6.75	341.90	327.20	8.375	8 -- 6.0	3.915	0.523	6.2
7.00	343.30	328.60	8.369	8 -- 5.9	3.932	0.526	6.3
7.25	344.70	330.00	8.363	8 -- 5.8	3.949	0.528	6.3
7.50	346.10	331.41	8.358	8 -- 5.7	3.967	0.530	6.3
7.75	347.51	332.82	8.352	8 -- 5.6	3.984	0.533	6.4
8.00	348.92	334.23	8.346	8 -- 5.5	4.002	0.535	6.4
8.25	350.34	335.65	8.341	8 -- 5.4	4.020	0.537	6.4
8.50	351.76	337.07	8.335	8 -- 5.4	4.038	0.540	6.5
8.75	353.19	338.49	8.329	8 -- 5.3	4.055	0.542	6.5
9.00	354.62	339.92	8.323	8 -- 5.2	4.073	0.545	6.5
9.25	356.06	341.36	8.318	8 -- 5.1	4.091	0.547	6.6
9.50	357.49	342.80	8.312	8 -- 5.0	4.110	0.549	6.6
9.75	358.94	344.24	8.306	8 -- 4.9	4.128	0.552	6.6
10.00	360.38	345.69	8.300	8 -- 4.8	4.146	0.554	6.7
10.25	361.84	347.14	8.295	8 -- 4.7	4.164	0.557	6.7
10.50	363.29	348.60	8.289	8 -- 4.6	4.183	0.559	6.7
10.75	364.75	350.06	8.283	8 -- 4.5	4.201	0.562	6.8
11.00	366.22	351.52	8.277	8 -- 4.4	4.220	0.564	6.8
11.25	367.68	352.99	8.271	8 -- 4.3	4.238	0.567	6.8
11.50	369.16	354.46	8.266	8 -- 4.2	4.257	0.569	6.9
11.75	370.64	355.94	8.260	8 -- 4.2	4.276	0.572	6.9
12.00	372.12	357.42	8.254	8 -- 4.1	4.295	0.574	7.0
12.25	373.60	358.91	8.248	8 -- 4.0	4.314	0.577	7.0
12.50	375.09	360.40	8.242	8 -- 3.9	4.333	0.579	7.0
12.75	376.59	361.89	8.236	8 -- 3.8	4.352	0.582	7.1
13.00	378.09	363.39	8.230	8 -- 3.7	4.371	0.584	7.1
13.25	379.59	364.89	8.224	8 -- 3.6	4.390	0.587	7.1
13.50	381.10	366.40	8.219	8 -- 3.5	4.410	0.589	7.2
13.75	382.61	367.91	8.213	8 -- 3.4	4.429	0.592	7.2
14.00	384.13	369.43	8.207	8 -- 3.3	4.449	0.595	7.2
14.25	385.65	370.95	8.201	8 -- 3.2	4.468	0.597	7.3
14.50	387.17	372.48	8.195	8 -- 3.1	4.488	0.600	7.3
14.75	388.70	374.01	8.189	8 -- 3.0	4.508	0.603	7.4
15.00	390.24	375.54	8.183	8 -- 2.9	4.527	0.605	7.4
15.25	391.78	377.08	8.177	8 -- 2.8	4.547	0.608	7.4
15.50	393.32	378.62	8.171	8 -- 2.7	4.567	0.611	7.5
15.75	394.87	380.17	8.165	8 -- 2.6	4.587	0.613	7.5
16.00	396.42	381.72	8.159	8 -- 2.5	4.608	0.616	7.5
16.25	397.98	383.28	8.153	8 -- 2.4	4.628	0.619	7.6
16.50	399.54	384.84	8.147	8 -- 2.3	4.648	0.621	7.6
16.75	401.10	386.41	8.141	8 -- 2.2	4.669	0.624	7.7
17.00	402.67	387.98	8.134	8 -- 2.2	4.689	0.627	7.7
17.25	404.25	389.55	8.128	8 -- 2.1	4.710	0.630	7.7
17.50	405.82	391.13	8.122	8 -- 2.0	4.731	0.632	7.8
17.75	407.41	392.71	8.116	8 -- 1.9	4.751	0.635	7.8

Temp Deg F	Pressure		Liquid Density		Vapor Density		Vap Dis %
	PSIA	PSIG	lb/gal	(lb-oz)/gal	lb/cu ft	lb/gal	
18.00	409.00	394.30	8.110	8 - 1.8	4.772	0.638	7.9
18.25	410.59	395.89	8.104	8 - 1.7	4.793	0.641	7.9
18.50	412.19	397.49	8.098	8 - 1.6	4.814	0.644	7.9
18.75	413.79	399.09	8.092	8 - 1.5	4.835	0.646	8.0
19.00	415.39	400.70	8.085	8 - 1.4	4.857	0.649	8.0
19.25	417.00	402.31	8.079	8 - 1.3	4.878	0.652	8.1
19.50	418.62	403.92	8.073	8 - 1.2	4.900	0.655	8.1
19.75	420.24	405.54	8.067	8 - 1.1	4.921	0.658	8.2
20.00	421.86	407.17	8.061	8 - 1.0	4.943	0.661	8.2

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New section and table filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
2. Amendment deleting asterisks filed 11-1-94; operative 12-1-94 (Register 94, No. 44).

Chapter 2. Special Equipment

Article 1. Compressed Gas in Cylinders

§ 4050. Application.

This code applies to refillable cylinders used for dispensing industrial, domestic and medicinal gases. Compressed gas shall include liquefied as well as non-liquefied gases. The requirements are not in lieu of those of other codes under which a cylinder was constructed, but may be in addition thereto. The code does not apply to cylinders filled for and in the presence of a customer.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Section 12107, Business and Professions Code.

HISTORY

1. New Subchapter 2 (Article 1, Sections 4050-4053) filed 4-21-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17).

§ 4051. Cylinder Labeling.

(a) Tare Weight. Cylinders used for the sale of gases by weight or that are filled by weight which in turn is converted to volume shall meet the following conditions:

(1) Cylinders shall have the tare weight legibly stamped on the cylinder.

(2) All tare weight values required in this article shall be preceded with the letters "T.W." or the words "Tare Weight."

(3) The tare weight shall include the weight of the cylinder, the valve and other permanent attachments. The weight of the protective cap shall not be included in either the tare weight or the gross weight.

(b) Actual Tare Weight. When acetylene cylinders are filled but are not acetoned to the stenciled tare weight, the actual tare weight must be shown on the tag with the net contents statement.

(c) Net Contents. The net contents must be expressed in terms of cubic feet, or pounds and ounces, or units of the metric system.

(d) Identity. The identity of the product must be shown.

(e) Name and Address. The name, address and zip code of the responsible company must be shown on cylinder.

(f) Liquefied Petroleum Gas Cylinder Contents. Cylinders or bottles which are prefilled with liquefied petroleum gas prior to sale, shall be labeled with the weight of the contents.

NOTE: Authority cited: Sections 12027, 12107 and 12609, Business and Professions Code. Reference: Sections 12107 and 12609, Business and Professions Code.

§ 4052. Notes.

N.1. The specific volume of acetylene gas at one atmosphere and at the temperature of 70°F shall be 14.7 cubic feet per pound.

N.2. Verification of net quantity statements for cylinders of argon, helium, hydrogen, nitrogen and oxygen shall be in accordance with the

Tables of Industrial Gas Container Contents and Density for Oxygen, Argon, Nitrogen, Helium and Hydrogen listed on National Bureau of Standards Technical Note issued in June 1985 and incorporated herein by reference.

N.3. Allowable Difference. If the stamped or stenciled tare is used to determine the net contents of the cylinder, the allowable difference between the actual tare weight and the stamped (or stenciled) tare weight, or the tare weight on a tag attached to the cylinder, for a new or used cylinder shall be:

(1) 1/2 percent for tare weights of 20 lb. or less or

(2) 1/4 percent for tare weights of more than 20 lb.

Average Requirements. When used to determine the net contents of cylinders, the stamped or stenciled tare weights of cylinders at a single place of business found to be in error predominately in a direction favorable to the seller and near the allowable difference limit shall be considered to not be in conformance with these requirements.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Sections 12100 and 12107, Business and Professions Code.

HISTORY

1. Amendment filed 3-3-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 11).
2. New subsections N.3-N.3(2) filed 5-7-93; operative 6-7-93 (Register 93, No. 19).

§ 4053. Definitions.

(a) Cubic Foot. A standard cubic foot of gas which at a temperature of 70°F and a pressure of 14.696 pounds per square inch absolute occupies one cubic foot.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Sections 12100 and 12107, Business and Professions Code.

Article 2. Procedures for Type Approval Certification Evaluation and Field Compliance Testing of Vapor Recovery Systems

§ 4054. A. Application.

A.1. Vapor recovery systems.

This code applies to Stage II vapor recovery systems designed to control motor vehicle fuel vapors which result from fueling operations pursuant to Sections 41954, 41956, and 41956.1 of the Health and Safety Code. This code establishes regulations to govern some design characteristics of those systems and their operation to ensure liquid recirculation is prevented.

A.1.1. Balance system.

The balance vapor recovery system utilizes fuel delivery nozzles with a bellows and face plate designed to make an "intended tight seal" with the vehicle fill pipe opening. Liquid filling a fuel tank displaces the existing vapor space creating a positive pressure in the tank. That higher pressure achieves equilibrium with the supply tank's vapor pressure through the vapor return line making the system "balanced".

A.1.2. Assist system.

Assist vapor recovery systems may utilize more than one type of fuel delivery nozzle. One has a bellows and face plate designed to make a

“non-intended tight seal” with the vehicle fill pipe opening. Another has no bellows, uses a coaxial metal fill spout with perforations in the outer tube to remove vapors, and allows visual observation of the fill pipe opening. These systems employ a mechanism to create vacuum which “evacuates” displaced vehicle fuel tank vapors by a negative pressure in the vapor return line.

A.2. Responsibility of Director and manufacturer.

A.2.1. Director.

As specified in subsection A.1., a system submitted for type approval certification shall be evaluated by the Director applying the procedures established in this article plus any additional tests he determines necessary to assure compliance of the system with the specifications and performance requirements contained herein.

A.2.2. Manufacturer.

Prior to type approval certification testing, the applicant shall submit information to the Director pertaining to the design of the system, including schematics, blueprints, instruction manuals, brochures, components, and all other information necessary for preliminary review. If defects are found in the design, manufacture, service, repair, or any other characteristic of the system, the Director may permit the applicant to modify and resubmit the system for further review. After successful completion of preliminary review, the applicant shall be authorized to install its system of a specified number of components in a prescribed location for use in the type approval certification testing.

A.3. Procedure.

The Secretary shall, in cooperation with the county sealer of weights and measures for the designated location, observe and examine the system in operation normally within 30 to 90 days. One or more examinations shall be conducted during the prescribed test period to determine compliance with Sections 4054.1 and 4054.2 which relate to specifications, performance, and accuracy. If, during or at the conclusion of any examination, the system fails to maintain reliability and accuracy within the tolerances specified in the submission for type approval certification, the Secretary shall so advise the applicant and may refuse further testing unless the defects are corrected. However, type approval certification shall not be issued until the applicant, following successful Division of Measurement Standards field tests, submits a report of evaluation by an independent testing laboratory as specified in Section 4054.2, N.6.

A.5. General code application.

The general code requirements for weighing and measuring devices as specified in Section 4001 shall also apply.

NOTE: Authority cited: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code. Reference: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code.

HISTORY

1. New article 2 (sections 4054, 4054.1–4054.3 and 4055) filed 1–6–83; effective upon filing (Register 83, No. 2).
2. Amendment of article 2 (heading only) filed 12–27–84; designated effective 1–1–85 pursuant to Government Code section 11346.2(d) (Register 84, No. 52).
3. Repealer and new article heading and section filed 8–1–91; operative 9–2–91 (Register 92, No. 9).
4. Editorial correction of printing errors in subsections A.1, A.1.1 and A.2.2 (Register 92, No. 34).
5. Repealer of subsection A.3., and renumbering and amendment of subsection A.4 to A.3 filed 5–7–97; operative 6–6–97 (Register 97, No. 19).

§ 4054.1. S. Specifications.

S.1. Systems Components.

Systems governed by this article utilizing motor vehicle fuel nozzles shall contain in each nozzle adequate and automatic means to prevent measured liquid from either recirculating (entering the vapor return line) or overflowing a vehicle fill pipe opening.

S.1.1. Nozzles.

(a) All nozzle types shall have a primary shut-off device which automatically activates when liquid covers the nozzle primary shut-off sensing mechanism.

(b) Balance type nozzles shall have a secondary shut-off device or other effective means to prevent liquid recirculation. Secondary shut-off devices shall automatically activate after liquid has entered the vapor return line because the primary shut-off device has failed. (Typically, secondary shut-off devices are pressure-activated and shut off when liquid in the vapor return line blocks the return of vapors).

(c) Assist type nozzles may have a secondary shut-off device or else some other effective means to avoid liquid overflowing a vehicle fuel tank because the primary shut-off device has failed. “Other effective means” include, but are not limited to, permitting liquid to be seen either by observing the fill pipe opening or hearing and seeing liquid overflow spillage.

S.2. Field compliance test unit.

S.2.1. Use.

The field compliance test unit shall be used to examine the proper operation of:

- (a) primary shut-off devices,
- (b) secondary shut-off devices, and
- (c) inches of H₂O column vacuum for assist systems.

S.2.2. Design.

S.2.2.1. Tank.

The test unit shall be a rigid metal vessel 13-inches high and 9-inches in diameter with a liquid capacity of 3 gallons (all measurements approximate). A commercial-sized, 30 pound Freon recharging tank is typically used.

S.2.2.2. Base support/stand.

The test unit may be supported either:

- (a) on a metal base 3/16-inch thick, 6-inches wide, and 17-1/2 inches long (all measurements approximate) or,
- (b) by a stand which elevates the test unit to accommodate a bottom-inserted 3/4 inch ball valve for emptying purposes.

S.2.2.3. Fuel fill pipe.

The test unit shall have a metal fuel fill pipe welded to the tank at a 45 degree angle from horizontal. Placement of the fill pipe is critical. It shall enter the test unit at the middle of the curvature between the top and sides of the vessel so that a specified ullage (vapor space) is created. The fill pipe shall have no internal vent, shall be 2-1/4-inch outside diameter and 10 inches long (both measurements approximate), and shall extend inside the tank no more than 1/4 inch. A longitudinal part of the fill pipe near its fill opening shall be cut away in order to observe that the nozzle primary shut-off device sensing mechanism is immersed in liquid. The cut-away is approximately 5 inches long to a depth of 1/2 the pipe's diameter. The fill pipe shall have transparent flexible tubing slipped over its entire length. The fill opening shall be modified to accommodate nozzle spouts at least 15/16 inch outside diameter (leaded fuel). The test unit shall be airtight when the fill pipe opening is sealed.

S.2.2.4. Other equipment.

A rigid, transparent plastic tube approximately 12 inches long and 3-7/8 inches inside diameter shall be installed around the fill pipe to contain liquid overflow. A 5/16-inch valve with an outlet to attach a hose shall be installed at the top center of the vessel for obtaining pressure readings. Handles for carrying and emptying the test unit may be attached. All metal parts of the test unit shall be electrically bonded together. Refer to the test unit illustrations in Figure 1.

FIELD COMPLIANCE TEST UNIT

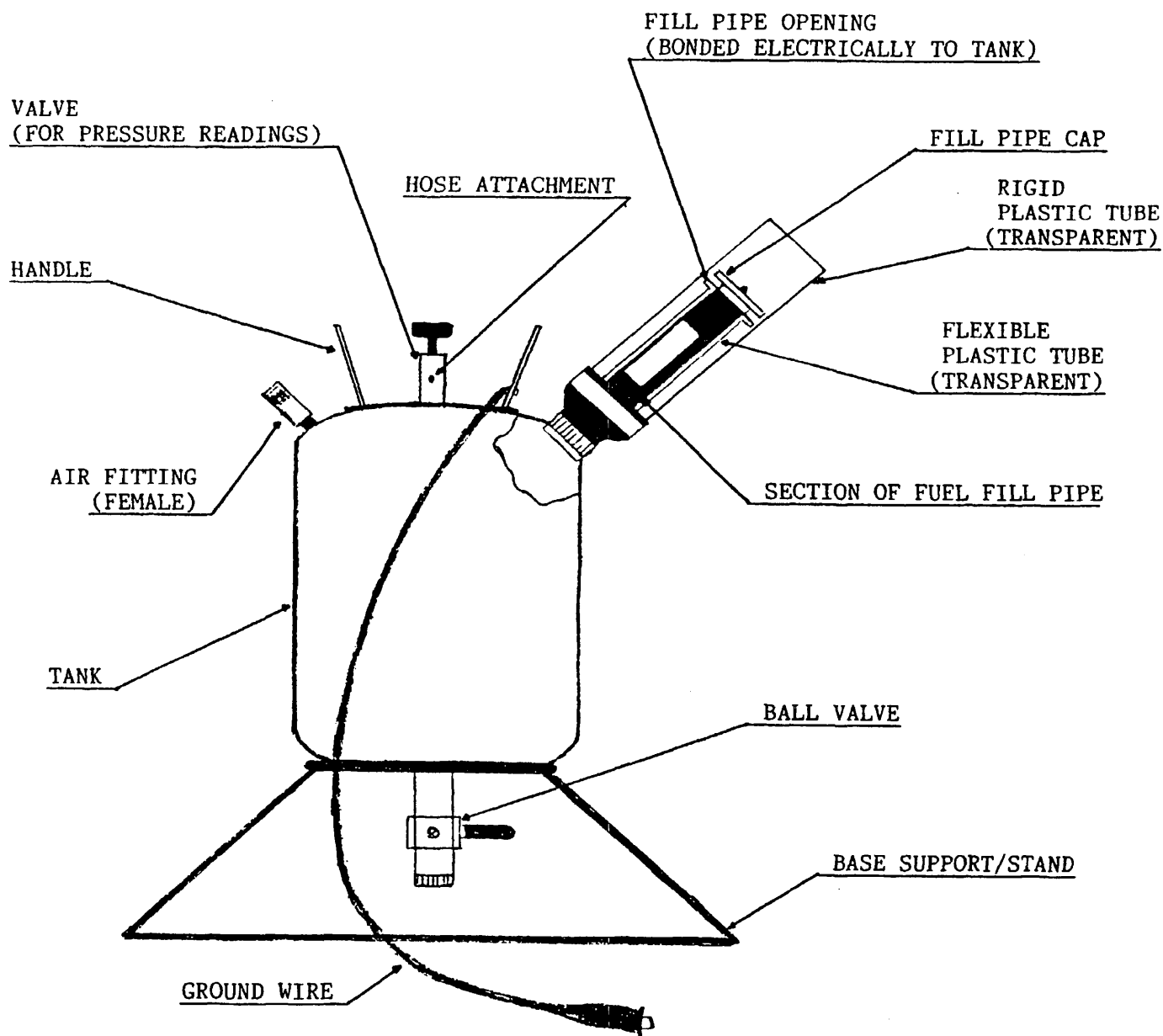


FIGURE 1

S.3. Assist system inches of H₂O column vacuum.

Assist vapor recovery systems with booted nozzle spouts that can form a closed seal around the vehicle filler neck shall be designed to operate at not more than -10 inches H₂O column vacuum as measured at the nozzle or test unit during a delivery typical of customer usage.

NOTE: Authority cited: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code. Reference: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code.

HISTORY

1. Amendment of subsection S.1. filed 2-22-88; operative 3-23-88 (Register 88, No. 10).
2. Repealer and new section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Editorial correction of printing error in subsection S.2.2.3 and addition of "S" to 2.2.4 subsection heading (Register 92, No. 34).
4. Amendment of subsection S.3. filed 5-7-97; operative 6-6-97 (Register 97, No. 19).

§ 4054.2. N. Notes—Type Approval Certification Evaluation.

N.1. System installation.

A minimum of 6 nozzles shall be installed in a test location for evaluation purposes. Hoses shall be selected to anticipate maximum customer usage and efficient observer interaction. The test nozzles shall not fail to operate as designed for the duration of the evaluation.

N.2. Dispenser measurement accuracy.

Prior to the field examination of a vapor recovery system, the dispenser meters for the test nozzles shall be tested and adjusted, if necessary, to be within maintenance tolerance.

N.3. Performance accuracy – primary and secondary shut-off devices.

N.3.1. Test method.

Examination of the test nozzles shall be performed with a field compliance test unit as specified in subsection S.2.

NOTE: Two or more test units will expedite the examination significantly.

N.3.1.1. Test procedure – primary shut-off device.

N.3.1.1.1. Initial test.

Dispense fuel into the test unit with each nozzle. All nozzles shall shut off automatically at any delivery flow rate as the test unit becomes full as specified in subsection S.1.1.(a).

N.3.1.1.2. Override test.

After the initial primary shut-off device activates, dispense enough additional fuel into the test unit to immerse the nozzle primary shut-off sensing mechanism in liquid. Record the dispenser indicator gallons.

Make 10 additional consecutive override attempts duplicating a range of customer usage and record the new indicated gallons. All 10 attempts shall result in automatic nozzle shut off before the dispenser volume indicator increases more than the 1/10 gallon limit as specified in subsection T.1.1. The 10 override attempts shall be performed on a minimum of 6 nozzles, each tested a minimum of 3 times during this examination.

N.3.1.2. Test procedures – secondary shut-off device (if equipped).

Introduce sufficient fuel into the vapor return line (approximately 1/10 gallon or 375 milliliter) to block the return of vapors through the line. Hold in place a "U-shaped" configuration of the fuel discharge hose at a level lower than the nozzle to concentrate the liquid. Make a minimum of 10 attempts to dispense fuel into an empty test unit. Record the dispenser indicator gallons before and after each attempt. (Balance-type nozzles must make their intended tight seal at the fill pipe opening.) The nozzle shall shut off automatically before the dispenser volume indicator increases more than the 3/10 gallon limit for each attempt as specified in subsection T.1.2. This procedure shall be performed on a minimum of 6 nozzles.

NOTES: (1) The test unit must be empty initially to insure liquid does NOT interact with the primary shut-off device sensing mechanism. (2) For some hose configurations, introducing additional fuel into the vapor return line during the test procedure may be necessary. Introduced liquid can be returned to storage by building vapor line pressure produced by this procedure.

N.4. Delivery accuracy – 150 vehicle test.

N.4.1. Test method.

Compliance with delivery accuracy requirements shall be based upon data recorded for at least 150 vehicles while observing customers fueling (self-serve) with the test nozzles under normal field conditions.

N.4.2. Test procedure.

Install a transparent trap, or other suitable means, between each nozzle and dispenser outlet connection for the hose. Any liquid entering a vapor return line will be collected while observing the fueling operations. Then after each fueling, the liquid shall be drained into the trap, removed, and measured. Trap placement and observer actions shall produce the least possible interference with normal operations at the test location.

The liquid collected from both one individual delivery and the total of all individual deliveries shall not exceed the tolerances as specified in subsections T.3.(a) and T.3.(b), respectively.

The 150 or more vehicles shall be representative of California vehicles, including various sizes of passenger vehicles, vans, and trucks. This examination shall include varied fuel delivery rates and nozzle orientations plus complete and partial fills. The system may be retested if the Director by his own initiative, or at the request of the applicant, determines the test was not representative of field conditions.

N.5. Performance accuracy – assist system evaporation and volume change.

N.5.1. Test method.

An appropriate means (manometer, column gauge, etc.) shall be used to determine the inches of H₂O column vacuum for nozzles where the spout is booted and can form a closed seal around the vehicle filler neck. Excessive vacuum may result in artificial evaporation of customer fuel which would decrease the measured volume and also cause possible implosion of vehicle fuel tanks.

N.5.2. Test procedure.

Install the vacuum indicator at the nozzle or test unit. Record the value of the reading while the system is operating in a normal manner to determine if it is functioning within the -10 inches H₂O column vacuum limit as specified in subsection T.2.

N.6. Independent laboratory evaluation.

Pursuant to Section 41958 of the Health and Safety Code, type approval certification regarding recirculation shall include evaluations by Underwriters Laboratories (U.L.) or a similar independent laboratory selected by the Secretary. Reports required by other State agencies may be used to determine compliance with this section. The laboratory evaluation shall determine but is not limited to, proper secondary shut-off device operation for nozzles where the spout is booted and can form a closed seal around the vehicle filler neck with the primary shut-off device inoperable.

NOTE: Authority cited: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code. Reference: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code.

HISTORY

1. Amendment of subsection N.1.2 and new subsection N.1.2 filed 2-22-88; operative 3-23-88 (Register 88, No. 10).
2. Repealer and new section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Editorial correction of printing error in subsections N.3.1 and N.4.1 (Register 92, No. 34).
4. Amendment of subsections N.1., N.5.1 and N.6 filed 5-7-97; operative 6-6-97 (Register 97, No. 19).

§ 4054.3. T. Tolerances.

T.1. Performance accuracy – primary and secondary shut-off devices.

T.1.1. Primary shut-off device overrides.

The required, additional attempts, in total, to override any nozzle primary shut-off device shall not increase the dispenser volume indication by more than 1/10 gallon.

T.1.2. Secondary shut-off device.

With the vapor return line blocked by fuel (simulating recirculation due to primary shut-off device failure), each attempt to dispense fuel shall result in automatic nozzle shut off before the dispenser volume indication increases more than 3/10 gallon.

T.2. Assist system inches of H₂O column vacuum.

Assist vapor recovery systems shall operate at the inches of H₂O column vacuum recommended by the manufacturer, but shall not exceed -10 inches of H₂O column vacuum for nozzles where the spout is booted and can form a closed seal around the vehicle filler neck.

T.3. Delivery accuracy – 150 vehicle test.

The quantity of measured liquid collected in the vapor return line/lines shall not exceed both:

- (a) 0.2 percent of any one individual vehicle fuel delivery, and
- (b) 0.02 percent of the sum of the fuel deliveries to all vehicles observed (150 or more) during the delivery accuracy tests.

NOTE: Authority cited: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code. Reference: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code.

HISTORY

1. Repealer and new section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
2. Amendment of subsection T.2. filed 5-7-97; operative 6-6-97 (Register 97, No. 19).

§ 4055. N. Notes—Field Compliance Testing.

N.1. Test methods – primary and secondary shut-off devices.

Examination of primary and secondary shut-off devices to determine the acceptability of an individual nozzle shall be performed using motor vehicles with fuel tanks and fill pipes representative of California vehicles and/or a field compliance test unit as specified in subsection S.2.

N.2. Test procedure – primary and secondary shut-off devices.

N.2.1 Initial test – primary shut-off device.

Dispense fuel into the fill pipe opening of a vehicle fuel tank or test unit in accordance with the instructions for the vapor recovery device, if any, and common public usage. The nozzle shall shut off automatically when the nozzle primary shut-off sensing mechanism is covered by the liquid. Automatic nozzle shut off shall occur with the dispenser operating at discharge rates both greater than and equal to the minimum rate allowed by the slowest hold-open clip setting, if any, or 3 gallons per minute, whichever is less.

N.2.2. Override test – primary shut-off device.

After the initial primary shut-off device activates, dispense enough additional fuel into the test unit to immerse the nozzle primary shut-off sensing mechanism in liquid. Record the dispenser indicator gallons. Make 6 additional, consecutive override attempts duplicating a full range of potential customer usage and record the new indicated gallons. All 6 attempts shall result in automatic nozzle shut off before the dispenser

volume indicator increases more than the 1/10 gallon limit as specified in subsection T.1.1.

NOTE: A test unit must be used for this procedure so the primary shut-off device sensing mechanism can be seen immersed in liquid.

N.2.3. Secondary shut-off device (if equipped).

Introduce sufficient fuel into the vapor return line (approximately 1/10 gallon or 375 milliliter) to block the return of vapors through the line. Hold in place a “U-shaped” configuration of the fuel discharge hose at a level lower than the nozzle to concentrate the liquid. Make one or more attempts to dispense fuel into an empty test unit or vehicle fuel tank that is within 3 gallons of being full, including the fill pipe. (Balance-type nozzles must make their intended tight seal at the fill pipe opening.) The nozzles shall shut off automatically before the dispenser volume indicator increases more than the 3/10 gallon limit for each attempt as specified in subsection T.1.2.

N.3. Assist systems.

To test assist systems for proper operation at the specified inches of H₂O column vacuum, refer to Section 4054.2, N.5.

NOTE: Authority cited: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a), and 41956(c), Health and Safety Code. Reference: Sections 12107 and 12500.5, Business and Professions Code; and Sections 41956(a) and 41956(c), Health and Safety Code.

HISTORY

1. Amendment of subsection N.1.1.1.3 and new subsection N.1.1.1.3.1 filed 2-22-88; operative 3-23-88 (Register 88, No. 10).
2. Repealer and new section filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
3. Editorial correction of printing error in subsection N.1 (Register 92, No. 34).
4. Change without regulatory effect amending N.2.1. filed 2-24-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 8).

Chapter 3. Device Inspection

Article 1. Frequency of Inspection

§ 4070. Frequency of Inspection.

The frequency of inspection for weighing and measuring devices used for commercial and law enforcement purposes is established as in Table 1.

1. The specified times are maximum times between tests. More frequent tests may be conducted if requested by the device user, in a complaint investigation or on the initiative of a weights and measures official. The definitions of specific device classifications are as in Subchapter 1.

[The next page is 239.]

TABLE 1. FREQUENCY OF INSPECTION

DEVICE	DEFINITION		INSPECTION FREQUENCY		
	Subchapter	Article	Initial Only	Annual	Other
MEASURES					
Dry	1	19	X		
Glass Graduates	1	18	X		
Linear	1	23			Original Plus Annual Visual
Liquid	1	14		X	
MEASURING DEVICES					
Cryogenic	1	10		X	
Electric Watt-Hour	1	28			10 Years
Fabric	1	21		X	
Lubricant	1	6		X	
Hydrocarbon Vapor	1	9			10 Years
LPG Liquid	1	8		X	
Moisture	1	27		X	
Odometers	1	24		X	
Retail Meters	1	6		X	
Taximeters	1	25		X	
Vehicle Tank Meters	1	7		X	
Water (Domestic Service)	1	11			10 years
Water (All Other)	1	11		X	
Wholesale Meters	1	6		X	
Wire and Cordage	1	22		X	
SCALES					
Animal	1	3		X	
Automatic Bulk Weighing System for Grain	1	29		X	
Belt Conveyors	1	4		X	
Computing	1	3		X	
Counter	1	3		X	
Crane	1	3		X	
Dormant	1	3		X	
Hopper and Tank	1	3		X	
Livestock	1	3		X	
Meat Beam, Steelyard	1	3		X	
Monorail	1	3		X	
Portable Platform	1	3		X	
Prescription	1	3			2 Years
Railway Track	1	3		X	
Spring	1	3		X	
Vehicle	1	3		X	
TANKS OR COMPARTMENTS					
Liquid Gauged	1	12	X		
Dry, Measured	1	12	X		
Farm Milk Tanks	1	16			Original Plus Annual Visual

NOTE: Authority cited: Sections 12027 and 12212, Business and Professions Code. Reference: Section 12212, Business and Professions Code.

HISTORY

1. New Subchapter 3 (Articles 1–2, Sections 4070–4074) filed 4–21–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17).
2. Amendment of Table 1 filed 12–27–84; designated effective 1–1–85 pursuant to Government Code Section 11346.2(d) (Register 84, No. 52).

Article 2. Alternatives to Specified Frequency of Inspection

§ 4071. Purpose of Article.

This article authorizes county sealers or directors of weights and measures, upon approval of the Director, to use plans for inspection of weighing and measuring devices other than those stated in Article 1 of this chapter. A portion of the sealer's resources will thus be made available for other weights and measures enforcement work which the Director finds to be necessary.

Upon granting such approval, the Director will instruct the sealer or director to perform such alternative work.

NOTE: Authority cited: Sections 12027 and 12212, Business and Professions Code. Reference: Section 12212, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section filed 2–24–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 8).

§ 4072. Findings.

The Director finds (1) that the minimum frequency of inspection required by Article 1 should be modified in some counties because of evi-

dence of satisfactory and continuing accuracy of certain weighing and measuring devices; (2) there is an increasing need to perform additional end result type inspections; and (3) that the performance of other enforcement work will assist the sealer in providing to consumers and commerce the services and protection required to be provided by the Business and Professions Code.

NOTE: Authority cited: Sections 12027 and 12212, Business and Professions Code. Reference: Section 12212, Business and Professions Code.

§ 4073. Approval of County Plans.

County plans will be approved in writing by the Director upon request and compliance with adequate requirements.

NOTE: Authority cited: Sections 12027 and 12212, Business and Professions Code. Reference: Section 12212, Business and Professions Code.

§ 4074. Instructions to Sealers.

(a) Frequency of Inspection. The county sealer or director of each county desiring to participate in this program shall prepare a plan of inspection for devices and submit it to the Director for approval. The plan shall provide that all commercial devices shall be tested either on a regular frequency, a variable frequency, or on the basis of a statistical sampling procedure. The sealer shall initiate variable frequency or statistical sampling plans upon approval of the Director and submit to the Director such reports as he may require concerning the operation of the plan and the level of consumer protection provided. The Director may withdraw his approval and require modification or termination of the plan when he determines it is necessary for the purpose of this chapter.

(b) Alternative Programs.

(1) The additional resources made available to the sealers shall be used in the following weights and measures programs:

(A) Consumer commodities and package inspection.

(B) Accuracy of retail delivery of weighed, measured and counted commodities.

(C) Educational activities related to weights and measures enforcement.

(2) Unless otherwise designated by the Director, the sealer shall apportion the resources used in such alternative programs in his discretion to best accomplish the purpose of this chapter.

NOTE: Authority cited: Sections 12027 and 12212, Business and Professions Code. Reference: Section 12212, Business and Professions Code.

Chapter 4. Registration of Service Agencies for Commercial Weighing and Measuring Devices

§ 4080. Application.

This chapter applies to any person performing duties as a service agency or service agent.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Section 12531, Business and Professions Code.

HISTORY

1. New Subchapter 4 (Sections 4080–4084) filed 4–21–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 17).
2. Repealer of former chapter 4 (sections 4080–4085) and section and new chapter 4 (sections 4080–4088) and section filed 10–23–2000; operative 10–23–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4081. Registration of Service Agencies and Service Agents Required.

(a) Each service agency shall forward to the Department, with the appropriate registration fee (Business and Professions Code Section 12535), the name and license number of a service agent within 30 days of hiring by the service agency.

(b) The registration of a service agent shall expire upon termination of employment with the service agency.

(c) Each service agency shall notify the Department within 30 days of the termination of a service agent.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12531 and 12532, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 5-19-82 (Register 82, No. 21).
2. Amendment of subsection (b) filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
3. Change without regulatory effect amending opening statement filed 2-24-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 8).
4. Repealer and new section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4082. Fees.

(a) Any fee not paid when due, or sent by mail and postmarked five days or more after the due date, is overdue.

(b) To any fee that is overdue and paid within 30 days of the due date, a penalty equal to 30 percent of the amount of the original fee shall be added.

(c) To any fee paid more than 30 days after the due date, a penalty equal to 50 percent of the amount of the original fee shall be added.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Section 12535, Business and Professions Code.

HISTORY

1. Editorial correction filed 5-19-82 (Register 82, No. 21).
2. Repealer of subsection (c) filed 2-7-90; operative 3-9-90 (Register 90, No. 7).
3. Repealer and new section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4083. Examinations/Licenses.

(a) License Application: Applicants for a service agent license must provide their name, address, and proof of identity by means of a picture identification. At the time of the examination, applicants shall pay an examination fee of \$35. Applicants renewing an existing license shall also provide the current license number.

(b) Examination Procedure: Written examinations will be administered by a county weights and measures office or the Division of Measurement Standards. The examination shall be administered according to instructions issued by the Division of Measurements Standards "Administration of Service Agent Examination" (Est. 8/00), which is incorporated by reference. Applicants will be advised of the results on the day of the examination. The proctor and applicant shall certify under penalty of perjury that the examination was given in accordance with the procedures specified.

(c) Qualification for a License: An applicant must receive a minimum score of 70 percent to qualify for a service agent license. Successful applicants will be provided with a service agent license at that time. Except as provided for in subsection (g), such license shall be valid for a period of five years from date of issue.

(d) Retention and Notification: Examination information will be retained in the county or state office where administered for a period of five years. County offices will provide to the Division of Measurement Standards within 30 days the names of individuals to whom service agent licenses have been issued.

(e) Failure and Reexamination: Applicants failing to receive a passing score may schedule an appointment to be reexamined. The fee specified in subsection (a) shall be paid each time the examination is taken. Reexaminations are subject to all the above conditions.

(f) Replacement License: A lost or mutilated license may only be replaced by the Division of Measurement Standards. Before a replacement license is issued, the licensee must provide a written request including the following information: the name as it appeared on the original license, the licensee's signature and current address, and a fee of \$10. If a licensee satisfies these requirements, a replacement license will be issued.

(g) License Renewal: To maintain a service agent license, applicants may take the examination on or up to 90 days before the expiration date of their current license. Successful applicants will receive a five year extension of the license period.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Section 12540, Business and Professions Code.

HISTORY

1. New section filed 3-3-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 11). For history of former Section 4083, see Registers 86, No. 1 and 82, No. 21.
2. Repealer and new section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).
3. Amendment filed 11-23-2005; operative 12-23-2005 (Register 2005, No. 47).

§ 4084. Authority for Service Agency to Place a Device into Service.

Pursuant to Business and Professions Code Sections 12509 and 12532(d), a service agency may perform any of the following:

- (a) place a correct device into service,
- (b) remove an "out-of-order" notice to perform the service, and must replace the notice if the device can not be corrected, or
- (c) remove an "out-of-order" notice from a corrected device and place it into service.

NOTE: Authority cited: Sections 12027, 12532(b) and 12509, Business and Professions Code. Reference: Sections 12531 and 12532, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4085. Responsibility of a Service Agency.

(a) Each service agency shall be responsible for compliance with the following:

(1) Repairing or Placing Devices into Service. — Each service agency shall place into service, upon installation or following repair, a device in such a manner that it meets all the requirements of Division 5 of the California Business and Professions Code and all the requirements of the California Code of Regulations, Title 4, Division 9. Weighing or measuring devices which are not "correct", as defined by Section 12500(c) of the Business and Professions Code, shall not be placed into service.

(2) Notice to County Sealer of Repairing or Placing of Device into Service by Service Agency. — Each service agency shall notify the county sealer of the repairing or placing in service of any device. The notice shall be in writing, and transmitted to the county sealer within the 24-hour period following the repair, except as provided by Business and Professions Code Section 12515(b).

The notification shall include the following minimum identifying information:

- (i) Name and address of service agency.
- (ii) Location of device(s). Name and address, including if available the unique identifier used by the business (e.g., pump or checkstand number).
- (iii) Name of service agent.
- (iv) Date of adjustment, repair, placing, or replacing into service.
- (v) Name of device manufacturer(s).
- (vi) Model designation(s) and serial number(s) of the device(s).
- (vii) On new installations, the National Institute of Standards and Technology or National Conference on Weights and Measures Certificate of Conformance number(s) for each separately approved component or device, if marked on the component or device.

(3) Security Seal. — Service agents shall replace a security seal on any adjustment mechanism where the seal was required to be removed for service, repair, or installation. Before placing a device into service, service agents shall install a security seal on any adjustment mechanism designed to be sealed.

(4) Identification of Service Agency Work. — Service agents shall identify their work on each device by applying an adhesive tag or label in a conspicuous location on the device. The adhesive tag or label shall show the name, registration number and business telephone number of the service agency, the license number of the service agent performing the work, and the date. Any security seal required pursuant to Section 12107 of the California Business and Professions Code shall show the registration number of the service agency and the year the security seal was placed on the device.

(5) Certificate of Accuracy of Standards. — A service agency shall, on request from a sealer, show a copy of the certification of accuracy for the standards used to place a device into service.

NOTE: Authority cited: Sections 12027 and 12107, Business and Professions Code. Reference: Sections 12515(a), 12531, 12532(h) and 12533, Business and Professions Code.

HISTORY

1. New section filed 3-13-89; operative 4-12-89 (Register 89, No. 12).
2. Repealer and new section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4086. Certification of Service Agency Standards.

Each service agency shall have its standards certified at the service agency's expense. Standards shall be tested and certified by either the Department or other metrology laboratories traceable to the National Institute of Standards and Technology (NIST). These laboratories include those in county weights and measures programs, industry, and other states that have been approved, certified, or accredited by NIST, or the Department in accordance with criteria established by NIST, or by other appropriate national or international accrediting organizations. The standards shall be certified as often as the Department deems necessary, based upon a review of supporting statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of supporting statistical data, standards shall be certified at least every two years.

NOTE: Authority cited: Sections 12027 and 12314, Business and Professions Code. Reference: Sections 12531(e), 12533(a)(1) 12533(a)(2) and 12534, Business and Professions Code.

HISTORY

1. New section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4087. Payments to Counties.

Payment to counties shall be subject to the following conditions:

(a) Each county shall report annually, before November 1, expenditures for the prior fiscal year, which shall be the period from July 1 through June 30.

(b) The county report, which shall be subject to audit, shall be submitted on form number 40-008A "County Annual Report" (Rev. 8/00), which is incorporated by reference.

(c) Any county not submitting a report by the prescribed date may be excluded from payment for that year.

(d) Payment for each fiscal year shall be based on the registration fees received for the same fiscal year.

(e) Payments to counties, based on expenditures which occurred during the previous fiscal year, will be made on or about January 31 of each year.

NOTE: Authority cited: Sections 12027 and 12537, Business and Professions Code. Reference: Sections 12209(c) and 12537, Business and Professions Code.

HISTORY

1. New section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

§ 4088. Advisory Committee.

(a) Members of the Committee shall receive no compensation, but are entitled to payment of necessary traveling expenses in accordance with State Administrative Manual Section 0774 (Rev. 9/91) and the rules of the Department of Personnel Administration.

(b) The Committee shall be advisory to the Department and may make recommendations on all matters pertaining to service agencies and/or service agents.

(c) The Committee shall elect a chairman and other officers as it deems advisable.

(d) The Committee shall meet at the call of the chairman or the Department, or at the request of any four members of the Committee. The Committee shall meet at least once a year.

(e) A quorum shall consist of five members. A vote of the majority of the members present at a meeting at which there is a quorum shall constitute an act of the Committee.

NOTE: Authority cited: Sections 12027 and 12541(a), Business and Professions Code; and Section 19815.4(d), Government Code. Reference: Section 12541(a)(d), Business and Professions Code.

HISTORY

1. New section filed 10-23-2000; operative 10-23-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).

Chapter 5. Billing for Utility Services

§ 4090. Billing for Utility Service.

Application.—This section applies to operators who provide utility service(s) to customers through commercial weighing or measuring devices.

Definition.—Utility service, for the purpose of this section, means gas, water and electric service or any combination thereof.

Invoices.—The operator of a utility service system shall provide each customer with an invoice for each billing period. The invoice shall clearly and separately show the following for each of the utility services provided:

(a) The opening and closing meter readings and the dates of those readings.

(b) The identification of all rates and quantities attributable to each block in the applicable rate structure.

(c) The total charge for the billing period.

Records.—The operator of a metered utility service system shall retain records of all pertinent rate schedules, and individual customer billings for a period of at least 12 months. Such records shall be made available at reasonable times for inspection and copying by the customer and county sealer.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12024, 12024.1 and 12024.2, Business and Professions Code.

HISTORY

1. New subchapter 5 (section 4090) filed 4-21-82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 17).
2. Amendment filed 12-31-85; designated effective 1-1-86 pursuant to Government Code section 11346.2(d) (Register 86, No. 1).
3. Amendment of subsections (a), (b), and (c) filed 8-1-91; operative 9-2-91 (Register 92, No. 9).
4. Amendment of chapter 5 heading and repealer and new section filed 5-7-97; operative 6-6-97 (Register 97, No. 19).

Chapter 6. Automotive Products Specifications

Article 1. Brake Fluid Standards

§ 4100. Specifications.

Brake fluid shall conform to the current specifications of the National Highway Traffic Safety Administration, United States Department of Transportation.

NOTE: Authority cited: Sections 12027 and 13710(c), Business and Professions Code. Reference: Section 13710(c), Business and Professions Code.

HISTORY

1. New Chapter 9 (Subchapters 6-8, Sections 4100-4308, not consecutive) filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2). For history of former Chapter 9, see Register 77, No. 10.
2. Editorial correction of NOTE filed 6-19-85; effective thirtieth day thereafter (Register 85, No. 25).

Article 2. Brake Fluid Labeling

§ 4110. Official Sample.

NOTE: Authority cited: Sections 12027, 12609, Business and Professions Code. Reference: Sections 13811, 13820 and 13821, Business and Professions Code.

HISTORY

1. Repealer filed 11-19-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4111. Change of Formula or Brand Designation.

NOTE: Authority cited: Sections 12027, 12609 and 13820, Business and Professions Code. Reference: Section 13811, Business and Professions Code.

HISTORY

1. Repealer filed 11–19–85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4112. Container Labeling.

In addition to the requirements of Section 13711(d), Business and Professions Code, the label of each container of brake fluid shall bear the brand name in letters not less than one-eighth inch (3.18 mm) in height.

Numerals used in connection with the brand name or merits of the product shall not exceed the actual dry equilibrium reflux boiling point of the product. Nothing in this section prohibits the use of any numeral or combination thereof in such a manner that it cannot reasonably be confused with the dry equilibrium reflux boiling point of the product.

NOTE: Authority cited: Sections 12027, 12609 and 13710(c), Business and Professions Code. Reference: Sections 12602 and 13711(d), Business and Professions Code.

HISTORY

1. New section filed 4–30–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).
2. Editorial correction including Article 2 heading filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).

Article 3. Automatic Transmission Fluid Standards

§ 4120. Specifications.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4120.1. Definitions.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4121. Basic Tests for Automatic Transmission Fluid.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

BASIC TESTS

§ 4122. Compatibility.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).

2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.1. Viscosity.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. New section filed 4–30–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).
2. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
3. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.2. Flash Point, C.O.C., °C.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction filed 4–28–82 (Register 82, No. 21).
2. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
3. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.3. Fire Point, C.O.C., °C.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.4. Copper Strip Corrosion Test.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.5. Foaming Test.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.6. Corrosion and Rusting Test.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4122.7. Effect on Seals.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4124.11. Procedure.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

§ 4124.12. Report.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

OXIDATION STABILITY TEST PROCEDURE

§ 4125. Scope.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

SHEAR TEST PROCEDURE

§ 4126. Scope.

NOTE: Authority cited: Sections 12027, 12609 and 13710(b), Business and Professions Code. Reference: Section 13710(b), Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 6–19–85; effective thirtieth day thereafter (Register 85, No. 25).
2. Repealer filed 8–18–87; operative 9–17–87 (Register 87, No. 34).

Article 4. Automatic Transmission Fluid Registration

§ 4130. Official Sample.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13910, 13911, 13920 and 13922, Business and Professions Code.

HISTORY

1. Repealer of Article 4 (Sections 4130 and 4131) filed 11–19–85; effective thirtieth day thereafter (Register 85, No. 47).

Article 5. Engine Fuel Standards

§ 4140. Specifications—Automotive Spark Ignition Engine Fuel.

Automotive spark ignition engine fuel specifications shall conform to the latest standards set forth in the American Society for Testing and Materials (ASTM) D 4814 with the following exception:

Vapor pressure specifications shall not be more than the maximum specified by any California state law. When the maximum Reid Vapor Pressure specification for automotive spark-ignition engine fuel is below that established by D 4814, the Vapor Pressure/Distillation Class AA specification for distillation temperatures may be applied in the manufacture of automotive spark-ignition engine fuel.

NOTE: Authority cited: Sections 12027 and 13440, Business and Professions Code. Reference: Sections 13401(m), 13440 and 13441, Business and Professions Code.

HISTORY

1. New section filed 4–30–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 21).

2. Amendment of article heading, section heading and text filed 10–5–89; operative 11–4–89 (Register 89, No. 41).
3. Amendment filed 7–28–92; operative 7–28–92 (Register 92, No. 31).
4. Amendment of article 5 heading filed 10–12–2001 as an emergency; operative 10–12–2001 (Register 2001, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–11–2002 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of article 5 heading as it existed prior to 10–12–2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 33).
6. Amendment of article 5 heading filed 8–15–2002; operative 9–14–2002 (Register 2002, No. 33).
7. Amendment filed 4–22–2004; operative 5–22–2004 (Register 2004, No. 17).
8. New final paragraph filed 9–9–2005 as an emergency; operative 9–9–2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2006 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 9–9–2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35).

§ 4141. Specifications—Kerosene.

Kerosene shall meet the specifications set forth by the American Society for Testing and Materials (ASTM) in the latest version of Standard Specification for Kerosene D–3699 contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:03.

NOTE: Authority cited: Sections 12027, 12609 and 13450, Business and Professions Code. Reference: Sections 13401(c) and 13450, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–7–86; effective thirtieth day thereafter (Register 86, No. 45). For prior history, see Register 82, No. 2.

§ 4142. Specifications—Fuel Oil.

Fuel oil shall meet the specifications set forth by the American Society for Testing and Materials (ASTM) in the latest version of Standard Specification for Fuel Oils D–396 contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:01, except the sulfur content shall not exceed the maximum specified by any California state law.

NOTE: Authority cited: Sections 12027 and 13450, Business and Professions Code. Reference: Sections 13401(l) and 13450, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–7–86; effective thirtieth day thereafter (Register 86, No. 45). For prior history, see Register 82, No. 2.

§ 4143. Specifications—Diesel Fuel.

Diesel fuel shall meet the specifications set forth by the ASTM International in the latest version of Standard Specification for Diesel Fuel Oils D–975 contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:01, except the sulfur content shall not exceed the maximum specified by any California state law. This standard is available from the ASTM International office at 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428–2959; or by calling (610) 832–9585 or by accessing the internet at: <http://www.astm.org> website.

NOTE: Authority cited: Sections 12027 and 13450, Business and Professions Code. Reference: Sections 13401(j), 13450 and 13451, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–7–86; effective thirtieth day thereafter (Register 86, No. 45). For prior history, see Register 82, No. 2.
2. Change without regulatory effect amending section and NOTE filed 2–28–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 9).

§ 4144. Specifications—Developmental Fuels.

(a) Sales of developmental engine fuels authorized by the Department are not subject to restrictions imposed upon the sale of non-conforming fuel products as set forth in Business and Professions Code Sections 13441, 13442 and 13451, but the Department's authorization does not create a variance or waiver from any other applicable California statute or regulation.

(b) An applicant for authorization to sell developmental engine fuel must submit the following information to the Department:

(1) a statement of the potential benefit of the fuel to the people of California; and

(2) a description of test conditions associated with the use of the fuel, including control and monitoring practices, and the method of distribution and storage.

(c) Any authorization provided by the Department is subject to the following terms and conditions:

(1) The authorization is limited to a period of two years, with an automatic renewal for an additional two years in the absence of action to revoke the authorization by the Department. and,

(2) Damages caused by sale, delivery, storage, handling and usage of the fuel shall be addressed in accordance with contractual provisions negotiated and agreed upon by the authorization holder and the user; and,

(3) The authorization holder shall report information to the Department as required to monitor the use of the fuel during the process of developing a generally recognized chemical and performance standard through a recognized consensus organization or standards writing organization, such as the American Society for Testing and Materials ("ASTM") or the Society of Automotive Engineers ("SAE"). The Department shall specify the reporting requirements on a case by case basis at the time the authorization is granted.

(d) The Department may take action to revoke the authorization at any time. Revocation of the authorization is effective and final upon receipt of written notification by the authorization holder. The Department may take action to revoke the authorization if the Department finds:

(1) the authorization holder has violated any of the terms and conditions of the authorization; or,

(2) the authorization holder has abandoned efforts to develop a generally recognized chemical and performance standard for the fuel through a recognized consensus organization or standards writing organization.

(3) there is a high probability of equipment harm with the continued use of the developmental fuel or to protect the public safety.

(e) The authorization shall cease to exist upon publication of a generally recognized chemical and performance standard for the fuel.

NOTE: Authority cited: Sections 12027 and 13405, Business and Professions Code. Reference: Sections 13401, 13440–13443 and 13450–13451, Business and Professions Code.

HISTORY

1. New section filed 10–12–2001 as an emergency; operative 10–12–2001 (Register 2001, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–11–2002 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2002, No. 33).
3. New section filed 8–15–2002; operative 9–14–2002 (Register 2002, No. 33).

§ 4145. Specifications—E85 Ethanol Fuel.

E85 Ethanol Fuel shall meet the specifications set forth by ASTM International in the latest version of "Standard Specification for Fuel Ethanol (Ed75–Ed85) for Automotive Spark–Ignition Engines D 5798", contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:03.

NOTE: Authority cited: Sections 12027 and 13440, Business and Professions Code. Reference: Sections 13401(m), 13440 and 13441, Business and Professions Code.

HISTORY

1. New section filed 4–22–2004; operative 5–22–2004 (Register 2004, No. 17).

§ 4146. Specifications—M85 Methanol Fuel.

M85 Methanol Fuel shall meet the specifications set forth by ASTM International in the latest version of "Standard Specification for Fuel Methanol (M70–M85) for Automotive Spark–Ignition Engines D 5797", contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:03.

NOTE: Authority cited: Sections 12027 and 13440, Business and Professions Code. Reference: Sections 13401(m), 13440 and 13441, Business and Professions Code.

HISTORY

1. New section filed 4–22–2004; operative 5–22–2004 (Register 2004, No. 17).

§ 4147. Specifications — Biodiesel Blending Stock and Biodiesel Fuel Blends.

Biodiesel Blending Stock and Biodiesel Fuel Blends shall meet the following specifications:

(1) The diesel fuel used for blending shall meet the specifications set forth by ASTM International in the latest version of "Standard Specification for Diesel Fuel Oils D 975", contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:01.

(2) Biodiesel blending stock shall meet the specifications set forth by ASTM International in the latest version of "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels D 6751", contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:04.

(3) Any finished biodiesel fuel blend shall meet the specifications set forth by ASTM International in the latest version of "Standard Specification for Diesel Fuel Oils D 975", contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, Volume 05:01.

NOTE: Authority cited: Sections 12027 and 13450, Business and Professions Code. Reference: Sections 13401(j) and 13450, Business and Professions Code.

HISTORY

1. New section filed 7–19–2004; operative 8–18–2004 (Register 2004, No. 30).

§ 4148. Labeling and Price Advertising Sign Requirements for Biodiesel.

(a) Biodiesel blends shall have the words "Biodiesel fuel (BXX)" where XX represents the volume percent biodiesel in the fuel, used to describe the name of the product on all dispensers, advertising signs, and storage tank labels as required in Section 13480 and 13532 of the Business and Professions Code.

(b) Every Biodiesel blend dispenser dispensing blends greater than 5 volume percent (B5) of Biodiesel shall display on each customer side, as required by Section 13484 of the Business and Professions Code, a sign clearly visible which reads as follows:

"THIS FUEL CONTAINS BIODIESEL. CHECK THE OWNER'S MANUAL OR WITH YOUR ENGINE MANUFACTURER BEFORE USING"

NOTE: Authority cited: Sections 12027 and 13450, Business and Professions Code. Reference: Sections 13480, 13484 and 13532, Business and Professions Code.

HISTORY

1. New section filed 7–19–2004; operative 8–18–2004 (Register 2004, No. 30).

Article 6. Engine Oil Labeling and Exemptions

§ 4150. Labeling.

In addition to the requirements of Section 13482, Business and Professions Code, the label of each container of motor oil products shall contain the SAE/API Service Classification in letters not less than one-eighth inch (3.18 mm) in height.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Section 13482, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 1–26–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 5).
2. New article 6 heading filed 2–25–94; operative 3–28–94. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 94, No. 8).

§ 4151. Exemptions—Prediluted Oil.

Prediluted oil intended only for mixture with gasoline or other motor fuel in a two-cycle engine is exempt from the following requirements of the Business and Professions Code:

(a) Section 13460(b)—Flash Points for the various SAE Classifications;

(b) Section 13460(a)—Service Classifications SAE J183;

(c) Section 13480(b)—Viscosity Grade Classification Number;

(d) Section 13482—SAE/API Service Classification markings on containers.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13460, 13480 and 13482, Business and Professions Code.

HISTORY

1. Change without regulatory effect amending subsections (b)–(d) and NOTE filed 1–26–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 5).

§ 4152. Tolerances.

The ratio of gasoline to motor oil or to motor oil solvent mixture, as required by Sections 13480 and 13490(b) of the Business and Professions Code, shall be within plus or minus 10 percent of the stated ratio on the dispenser.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13480 and 13490, Business and Professions Code.

Article 7. Labeling and Specifications of Engine Coolants

§ 4160. Definitions Used in This Article.

(a) “Engine Coolant” means any substance or preparation, regardless of its origin, intended to be diluted before use as the cooling medium in the cooling system of an internal combustion engine to provide protection against freezing, overheating, and corrosion of the cooling system, or any product intended to be diluted before use which is labeled to indicate or imply that it will prevent freezing or overheating of the cooling system of an internal combustion engine. The term “engine coolant”, as used in this article, also means “antifreeze.”

(b) “Prediluted Engine Coolant” means any substance or preparation, regardless of its origin, intended or labeled for use full strength as the cooling medium or as a top off in the cooling system of an internal combustion engine to provide supplemental protection against freezing, overheating, and corrosion of the cooling system. The term “prediluted engine coolant”, as used in this article, also means “prediluted anti-freeze.”

(c) “Recycled Engine Coolant” means engine coolant that contains recycled ingredients.

(d) “Recycled Prediluted Engine Coolant” means prediluted engine coolant that contains recycled ingredients.

(e) “Virgin Engine Coolant” means engine coolant that does not contain recycled or reconditioned ingredients.

(f) “Virgin Prediluted Engine Coolant” means prediluted engine coolant that does not contain recycled or reconditioned ingredients.

(g) “Reconditioned Engine Coolant” means recycled prediluted engine coolant produced from prediluted engine coolant that has been removed from a vehicle, reconditioned and is intended to be returned to the same vehicle.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13700, 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 4–30–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 21).
2. Editorial correction filed 6–19–85; effective thirtieth day thereafter (Register 85 No. 25).
3. Amendment filed 11–29–93; operative 12–29–93 (Register 93, No. 49).
4. Amendment of article heading and section filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
5. Repealer of article 7 (sections 4160–4175) and section and new article 7 (sections 4160–4171) and section filed 1–11–2002; operative 1–11–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4161. Labeling.

In addition to the requirements of Section 13711(a) and (b), Business and Professions Code, the label of each container of engine coolant, prediluted engine coolant, recycled engine coolant, and recycled prediluted engine coolant shall bear a distinctive brand name in letters not less than

one-eighth inch (3.18 mm) in height. Additionally, each container packaged after January 1, 2003, shall clearly identify the applicable American Society for Testing and Materials (ASTM) Standard Designation which the product meets.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13700 and 13711(a)(b), Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–29–93; operative 12–29–93 (Register 93, No. 49). For prior history, see Register 85, No. 47.
2. Amendment of section heading and section filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
3. Repealer and new section filed 1–11–2002; operative 1–11–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4162. Specifications — Glycol Base Virgin Engine Coolant and Virgin Prediluted Engine Coolant for Automobiles and Light Duty Service.

Glycol base virgin engine coolant and virgin prediluted engine coolant for use in automobiles and light duty service shall meet the specifications set forth by the American Society for Testing and Materials (ASTM) in the Standard Specifications for Glycol Base Engine Coolant for Automobiles and Light Duty Service D 3306–00a. In addition, the reserve alkalinity of virgin engine coolants shall not be less than 10.0 mL of .1N hydrochloric acid and virgin prediluted engine coolants shall not be less than 5.0 mL of .1N hydrochloric acid when tested by ASTM procedure D 1121–98.

NOTE: Authority cited: Sections 12027 and 13710(a), Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–29–93; operative 12–29–93 (Register 93, No. 49). For prior history, see Register 85, No. 25.
2. Amendment of section heading and section filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
3. Repealer and new section filed 1–11–2002; operative 1–11–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4163. Specifications — Recycled Glycol Base Engine Coolant for Automobiles and Light Duty Service.

Glycol base recycled engine coolant for use in automobiles and light duty service shall meet the specifications set forth by the American Society for Testing and Materials (ASTM) in the Standard Specification for Recycled Glycol Base Engine Coolant for Automobiles and Light Duty Service D 6472–00. In addition, the reserve alkalinity shall not be less than 10.0 mL of .1N hydrochloric acid when tested by ASTM procedure D 1121–98.

NOTE: Authority cited: Sections 12027 and 13710(a), Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–29–93; operative 12–29–93 (Register 93, No. 49). For prior history, see Register 85, No. 47.
2. Repealer filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
3. Repealer and new section filed 1–11–2002; operative 1–11–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4164. Specifications — Recycled and Reconditioned Glycol Base Prediluted Engine Coolant for Automobiles and Light Duty Service.

Glycol base recycled prediluted engine and reconditioned engine coolant for use in automobiles and light duty service shall meet the specifications set forth by the American Society for Testing and Materials (ASTM) in the Standard Specification for Recycled Prediluted Aqueous Glycol Base Engine Coolant (50 Volume % Minimum) for Automobile and Light Duty Service D6471–99. In addition, the reserve alkalinity shall not be less than 5.0 mL of .1N hydrochloric acid when tested by ASTM procedure D 1121–98.

NOTE: Authority cited: Sections 12027 and 13710(a), Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. Repealer and new section filed 11–29–93; operative 12–29–93 (Register 93, No. 49). For prior history, see Register 85, No. 25.

2. Amendment of section heading and section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
3. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4165. Exemptions — Reserve Alkalinity.

The Department may exempt any engine coolant, prediluted engine coolant, recycled engine coolant, recycled prediluted engine coolant or reconditioned engine coolant formulation from the reserve alkalinity requirement if the manufacturer, packer, seller, or distributor presents test data showing that the formulation meets the performance requirements specified for the Standard Test Methods for: "Corrosion Test for Engine Coolants in Glassware" — ASTM D 1384-7a, "Simulated Service Corrosion Testing of Engine Coolants" — ASTM D-2570-96, and "Corrosion of Aluminum Alloys in Engine Coolants Under Heat — Rejecting Conditions" — ASTM D 4340-96.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-29-93; operative 12-29-93 (Register 93, No. 49). For prior history, see Register 85, No. 47.
2. Repealer filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
3. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4166. Variance from Chloride Standard — Specifications for Recycled Engine Coolant.

The Department may grant a variance for recycled engine coolant from the chloride standard contained in the ASTM specification referenced in Section 4163, if the engine coolant producer or manufacturer of the engine coolant recycling system provides test data that the recycled engine coolant meets all the following conditions:

(a) The chloride content is less than one hundred fifty parts per million (150 ppm);

(b) The recycled engine coolant meets all other requirements as specified in Section 4163;

(c) The recycled engine coolant, when tested in accordance with Annex 3 of ASTM D 6472-00 shall visually provide a similar or smaller amount of precipitate when compared to the results obtained when testing the reference coolant specified in Annex 2 of ASTM D 6472-00;

(c) The recycled engine coolant shows a Protection Potential, E_G , of greater (more positive) than or equal to -400 mV v SHE (standard hydrogen electrode) when tested in accordance with the ASTM Standard Test Method for Repassivation Potential of Aluminum and Its Alloy by Galvanostatic Measurement D 6208-97.

Variances granted under this section shall remain in effect until January 1, 2003.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a), 13710.5 and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-29-93; operative 12-29-93 (Register 93, No. 49).
2. Repealer filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
3. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4167. Variance from Chloride Standard — Specifications for Recycled Prediluted Engine Coolant or Reconditioned Engine Coolant.

The Department may grant a variance for recycled prediluted engine coolant from the chloride standard contained in the ASTM specifications referenced in Section 4164, if the engine coolant producer or manufacturer of the engine coolant recycling system provides test data that the recycled prediluted engine coolant or reconditioned engine coolant meets all the following conditions:

(a) The chloride content is less than one hundred fifty parts per million (150 ppm);

(b) The recycled prediluted engine coolant meets all other requirements as specified in Section 4164;

(c) The recycled prediluted engine coolant, when tested in accordance with Annex 3 of ASTM D 6471-99 shall provide a similar or smaller amount of precipitate when compared to the results obtained when testing the reference coolant specified in Annex 2 of ASTM D 6471-99;

(d) The recycled prediluted engine coolant shows a Protection Potential, E_G , of greater (more positive) than or equal to -400 mV v SHE (standard hydrogen electrode) when tested in accordance with ASTM Standard Test Method for Repassivation Potential of Aluminum and Its Alloys by Galvanostatic Measurement D 6208-97. The test solution shall be prepared as follows: Mix 50 volume percent of the recycled prediluted engine coolant or reconditioned engine coolant with 25 volume percent corrosive water (as specified in ASTM D 6208-97) and 25 percent volume deionized water at room temperature.

Variances granted under this section shall remain in effect until January 1, 2003.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-29-93; operative 12-29-93 (Register 93, No. 49).
2. Amendment filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
3. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4168. Availability of ASTM Standards and Test Procedures.

The American Society for Testing and Materials (ASTM) product standards and test procedures incorporated by reference in this article, with the exception of ASTM D 3306-00a, are available in the 2000 version of the Annual Book of ASTM Standards, Volume 15.05. ASTM D 3306-00a, is only available as a separate publication until September 2001. After September 2001, ASTM D 3306-00a will be available in the 2001 version of the Annual Book of ASTM Standards, Volume 15.05. These documents are available from the American Society for Testing and Materials (ASTM) located at 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4169. Evaluation of Test Results.

No adjustments for test precision or bias shall be applied in the evaluation of specifications established in this article for which repeatability, reproducibility, or bias statements have not been established.

(a) Evaluation of Suspended Matter and Sediment in Engine Coolant and Recycled Engine Coolant. — Shake the engine coolant to insure a homogeneous mixture and combine 140 mL of this mixture with 60 mL of deionized water at room temperature. Immediately pour the blended mixture into a 250 mL Griffin beaker and allow it to stand at room temperature undisturbed for 24 hours. Visually examine the blend for suspended matter and sediment. A flashlight or other similar source of illumination shall be used to aid in the evaluation. The mixture shall not contain visually identifiable suspended matter or sediment.

(b) Evaluation of Suspended Matter and Sediment in Prediluted Engine Coolant and Prediluted Recycled Engine Coolant. — Shake the prediluted engine coolant to insure a homogeneous mixture. Immediately pour 200 mL of the mixture into a 250 mL Griffin beaker and allow it to stand at room temperature undisturbed for 24 hours. Visually examine the blend for suspended matter and sediment. A flashlight or other similar source of illumination shall be used to aid in the evaluation. The mixture shall not contain visually identifiable suspended matter or sediment.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4170. Verification of Claim for Recycled Engine Coolant.

Any distributor, manufacturer, producer, or seller of recycled engine coolant which has a chloride ion concentration greater than 25 parts per million (ppm) or a sulfate ion concentration greater than 100 ppm shall provide, upon request of a duly authorized representative of the Department, fleet testing results as specified in ASTM D 6472-00. Any product for which test results are not provided to the Department within 30 days of request shall be deemed adulterated. Verification of fleet testing data by a manufacturer of an engine coolant recycling system is prima facie evidence that the product produced using the same equipment, technique and formulation meets the fleet testing requirements in ASTM D 6472-00.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4171. Verification of Claim for Recycled Prediluted Engine Coolant or Reconditioned Engine Coolant.

Any distributor, manufacturer, producer, or seller of recycled prediluted engine coolant or reconditioned engine coolant which has a chloride ion concentration greater than 33 parts per million (ppm) or a sulfate ion concentration greater than 140 ppm shall provide, upon request of a duly authorized representative of the Department, fleet testing results as specified in ASTM D 6471-99. Any product for which test results are not provided to the Department within 30 days of request shall be deemed adulterated. Verification of fleet testing data by a manufacturer of an engine coolant recycling system is prima facie evidence that the product produced using the same equipment, technique and formulation meets the fleet testing requirements in ASTM D 6471-99.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer and new section filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4172. Evaluation of Storage Stability and Compatibility of Recycled Prediluted Engine Coolant.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4173. Evaluation of Electrochemical Pitting of Recycled Prediluted Engine Coolant.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).

2. Repealer filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4174. Evaluation of Test Results.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 4175. Definitions — As Used in This Article.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13700, 13710(a) and 13713, Business and Professions Code.

HISTORY

1. New section filed 11-2-98; operative 12-2-98 (Register 98, No. 45).
2. Repealer filed 1-11-2002; operative 1-11-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

Chapter 7. Advertising of Gasoline and Other Motor Vehicle Fuels

§ 4200. Advertising Medium.

"Advertising medium," as used in this subchapter, includes banner, sign, placard, poster, streamer and card, whether or not mounted, whether appearing on the same or different standards, or whether or not physically connected with each other; provided, the advertised statements can reasonably be read as one advertising message.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13531, 13532, 13534, 13535, 13536, 13537, 13538, 13539 and 13540, Business and Professions Code.

HISTORY

1. New section filed 4-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 21).
2. Editorial correction of NOTE filed 6-19-85; effective thirtieth day thereafter (Register 85, No. 25).

§ 4201. Price Sign Display on Dispensing Apparatus.

In addition to the requirements of Sections 13470 and 13480, Business and Professions Code, any sign referring to the price of gasoline or other motor vehicle fuel displayed on any dispensing apparatus from which gasoline or other motor vehicle fuel is being offered for sale or sold, shall be limited to the following:

- (a) Actual price per gallon or liter, and
- (b) Conversion chart information required for liter sales per Section 13470.5, Business and Professions Code.
- (c) Brand name and the name of the product may be displayed.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 13470, 13470.5 and 13480, Business and Professions Code.

§ 4202. Illumination.

In addition to the requirements of Section 13536, Business and Professions Code, when any advertising message is illuminated, the entire message shall be uniformly illuminated.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Section 13536, Business and Professions Code.

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Chapter 8. Motor Oil Fee

§ 4300. Definition of "Motor Oil" and Other Terms for Purposes of Fee Responsibility.

For purposes of fee responsibility under Sections 13430 and 13431 of the Business and Professions Code, "motor oil" includes natural, synthetic and re-refined motor oils, whether or not in retail containers, and in addition, any product used an additive to a motor oil used in the lubrication of internal combustion engines. Refinery base stocks, manufacturing additives used by motor oil dealers in the commercial compounding and production of motor oils, and other motor oil components are not motor oils for the purposes of fee responsibility unless they are used separately in the lubrication of internal combustion engines, in which case they are "motor oils" for the purpose of the fee responsibility.

For purposes of this Subchapter, the term "additive" when used alone, means any product to be added to the motor oil in the crankcase of an internal combustion engine for the purpose of reducing friction, heat or wear of the internal moving parts.

"Internal combustion engine" means all engines producing power by internal combustion and includes 2-cycle and 4-cycle internal combustion engines and turbine engines.

"Export" or "exported" means the delivery or shipment of motor oil by the dealer from a point in California to a point outside of California when, pursuant to the contract of sale, the motor oil is delivered by the dealer to:

- (a) the out of state point by facilities operated by the dealer; or
- (b) a carrier for shipment to a customer at the out of state point; or
- (c) a customs broker or forwarding agent for shipment to a location outside of California.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Section 13430, Business and Professions Code.

HISTORY

1. New definition of "export" filed 8-30-2001; operative 9-29-2001 (Register 2001, No. 35).

§ 4302. Fee Responsibility and Exemption.

(a) The first motor oil dealer that produces, sells or distributes motor oil in California, whether or not packaged in retail containers, shall pay the fee for all such motor oil sold in California.

(b) Motor oil produced outside of California and transported into California for export shall be exempt from the motor oil fee, provided adequate accounting records substantiating exports from California are maintained and available for audit by the Director. In addition, motor oil exported for sale outside this State by a motor oil dealer, including such motor oil delivered by a motor oil dealer to any vessel clearing from a port of this State for a port outside this State and actually exported from this State in the vessel, is exempt from the fee provided for in Section 13431 of the Business and Professions Code and Section 4304 of Title 4, California Administrative Code.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 13430 and 13431 Business and Professions Code.

HISTORY

1. Amendment filed 7-22-82; effective thirtieth day thereafter (Register 82, No. 30).
2. Editorial correction filed 8-26-82 (Register 82, No. 35).

§ 4304. Fees and Returns.

(a) The fee provided for in Section 13431 of the Business and Professions Code is established at two cents (\$0.02) per gallon effective July 1, 1996.

(b) Each person responsible for the payment of the fee shall file a return with the Department no later than 30 days after the quarter ending September 30, December 31, March 31 and June 30. The return shall be on a form provided by the Department, complete and accompanied by payment of the fee due for such transactions.

(c) Any return not received by the Cashier, California Department of Food and Agriculture in Sacramento by the dates stated in Subsection (b), not complete or not accompanied by the full fee due, is delinquent. A return that is postmarked not later than the fifth day of the month in which the return is due shall be deemed received by the date on which it was due. NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431-13433, Business and Professions Code.

HISTORY

1. Editorial correction of subsection (c) filed 8-26-82 (Register 82, No. 35).
2. Amendment of subsections (a) and (b) filed 5-1-96; operative 5-31-96 (Register 96, No. 18).
3. Amendment filed 8-30-2001; operative 9-29-2001 (Register 2001, No. 35).

§ 4306. Penalties.

For any delinquency in making a return, or any deficiency in payment, the Director shall add to such delinquent payment a penalty of ten percent of the amount which is due. For delinquencies beyond one year, an additional one percent per month shall be added.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431 and 13433, Business and Professions Code.

§ 4307. Refund of Fees Paid.

All requests for refund of payments made pursuant to Section 4304 shall be submitted to the Department within three years from the date of the payment of the fee. Requests for refund shall contain the following information:

- (a) A letter requesting the refund, signed by an employee of the company with knowledge of the transactions;
- (b) A ledger sheet tabulating purchases and exports for which the refund is being requested;
- (c) Copies of invoices, vouchers, etc., documenting that the Motor Oil Fee was paid; and,
- (d) Copies of invoices, vouchers, bills of lading, etc., documenting that the motor oil was exported from California.

Requests for refunds submitted later than three years from the time of payment of the motor oil fee or not supported by the required documentation will be returned, unprocessed, to the sender by the Department.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431-13433, Business and Professions Code.

HISTORY

1. New section filed 8-30-2001; operative 9-29-2001 (Register 2001, No. 35).

§ 4308. Records.

Each person required to file a return pursuant to Section 13431, Business and Professions Code, shall maintain in California or, with the Director's permission at another location, an accurate record of all transactions subject to fee assessment. Such records shall be subject to audit by the Director. The Director may require records kept outside of California to be copied and sent to California for audit. Alternatively, if the taxpayer elects to have all audits conducted out-of-state, the costs for the out-of-state audits will be reimbursed to the state by the taxpayer.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431 and 13433, Business and Professions Code.

HISTORY

1. Amendment filed 7-22-82; effective thirtieth day thereafter (Register 82, No. 30).

Chapter 9. Weighmaster Enforcement

Article 1. General Provisions

§ 4400. Definition.

NOTE: Authority cited: Sections 12027, 12738, 12766 and 12799.5, Business and Professions Code. Reference: Sections 12700, 12740 and 12770, Business and Professions Code.

HISTORY

1. New Subchapter 9 (Articles 1-8, Sections 4400-4472, not consecutive) filed 1-31-83; effective thirtieth day thereafter (Register 83, No. 6).

2. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4401. Licenses.

A copy of the current weighmaster license shall be maintained at each weighing or measuring location and made available to a Sealer upon request.

NOTE: Authority cited: Sections 12027 and 12735, Business and Professions Code. Reference: Sections 12703 and 12704, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

Article 2. Weighmaster Certificates

§ 4410. Recording Procedures.

In addition to the provisions of the Business and Professions Code, information shall be recorded on weighmaster certificates as follows:

(a) Certificates issued for gross weight only shall have the words "gross only" entered on the certificate in the space provided for recording the tare weight.

(b) Certificates issued for tare weight only shall have the words "tare only" entered on the certificate in the space provided for recording the gross weight.

(c) Certificates issued for net quantity only that contain gross and tare spaces shall have the words "Net Only" entered on the certificate in the spaces provided for recording the gross and tare weights.

NOTE: Authority cited: Sections 12027 and 12735, Business and Professions Code. Reference: Sections 12713 and 12715, Business and Professions Code.

HISTORY

1. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4411. Procedures for Voiding and Correcting.

NOTE: Authority cited: Sections 12027, 12721, 12738, 12766, 12791 and 12799.5, Business and Professions Code. Reference: Sections 12718, 12721, 12756, 12788 and 12791, Business and Professions Code.

HISTORY

1. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4412. Transfer of Weight, Measure or Count.

NOTE: Authority cited: Sections 12027, 12713, 12738, 12750, 12766, 12783 and 12799.5, Business and Professions Code. Reference: Sections 12713, 12750 and 12783, Business and Professions Code.

HISTORY

1. Editorial correction filed 7-15-83 (Register 83, No. 30).

2. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4413. Certificates Issued on Information Furnished by Another Party.

NOTE: Authority cited: Sections 12027, 12713, 12738, 12750, 12766, 12783 and 12799.5, Business and Professions Code. Reference: Sections 12713, 12750 and 12783, Business and Professions Code.

HISTORY

1. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4414. Names of Weighmasters Using Automatic Weighing, Measuring or Counting Systems.

NOTE: Authority cited: Sections 12027, 12715, 12738, 12752, 12766, 12785 and 12799.5, Business and Professions Code. Reference: Sections 12715, 12752 and 12785, Business and Professions Code.

HISTORY

1. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4415. Weighing Vehicles with All Persons off the Scale.

NOTE: Authority cited: Sections 12027, 12738, 12766 and 12799.5, Business and Professions Code. Reference: Sections 12728 and 12762, Business and Professions Code.

HISTORY

1. Repealer filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

Article 3. Predetermined Individual Tare Weights

§ 4420. Predetermined Individual Tare Weight.

A predetermined individual tare weight is the weight of a vehicle, container or pallet determined by a weighmaster prior to the time of delivery of a product and is established and used in accordance with the following provisions.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4421. Establishing.

Predetermined individual tare weights shall be established as follows:

(a) A weighmaster shall weigh the vehicle, container or pallet and issue a "tare only" certificate.

(b) Each vehicle for which a predetermined individual tare weight has been established shall be clearly marked on both sides with the company name or code, license number and predetermined tare weight. The tare weight shall be permanently marked either on the vehicle or on a placard secured thereto. The tare weight shall be identified in numbers and letters not less than three (3) inches (7.62 cm) in height. In the case of gondola units, the required identification shall be applied to both sides of the container portion.

(c) Each container or pallet for which a predetermined individual tare weight has been established shall be clearly marked on both sides with the company name or code, company identification number and predetermined tare weight. The tare weight shall be identified in letters and numbers not less than three (3) inches (7.62 cm) in height.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4422. Certificate Requirements.

A predetermined individual vehicle, container or pallet tare weight may be used by a weighmaster to determine the net weight of a commodity, provided the following information appears on the certificate:

(a) the fact that a predetermined individual tare weight is being used. This may be designated by the letters "P.T."; and

(b) the predetermined tare weight, company name or code, and license number or serial number of each vehicle, container and/or pallet.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12715, 12722 and 12723, Business and Professions Code.

HISTORY

1. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4423. Conditions of Use.

The following conditions apply to the use of predetermined individual tare weights:

(a) predetermined individual tare weights may be used by a weighmaster unless a party having a legal or financial interest in the transaction notifies the weighmaster prior to the issuance of the certificate that a predetermined individual tare weight shall not be used; and

(b) a weighmaster shall not use a predetermined individual tare weight which is not based on weighmaster records in his/her possession unless furnished with a copy of the "tare only" certificate which established the predetermined individual tare weight; and

(c) a weighmaster shall not use a predetermined individual tare weight if for any reason it appears that the tare weight may be beyond the tolerance levels prescribed by Section 4450 of this Subchapter.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Repealer of former subsection (c) and relettering of former subsection (d) to subsection (c) filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

Article 4. Seasonal Tare Weights

§ 4430. Seasonal Tare Weight.

A seasonal tare weight is the tare weight of a fuel consuming vehicle used to transport bulk loads of tomatoes and is established and used in accordance with the following provisions. Seasonal tare weights are determined by weighmasters and are officially established with the issuance of a cab card.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722, 12723 and 12729, Business and Professions Code.

HISTORY

1. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4431. Establishing.

Seasonal tare weights shall be established as follows:

(a) A weighmaster shall weigh each unladen vehicle after the driver has confirmed that the vehicle has full fuel tanks. (An unladen vehicle is a vehicle without commodity or persons.)

(b) The weighmaster shall:

(1) Complete and issue a "tare only" weighmaster certificate.

(2) Complete and issue an original cab card which officially establishes the seasonal tare weight. The cab card shall be furnished by the Division of Measurement Standards. The seasonal tare weight stated on the cab card shall be 250 pounds less than the weight shown on the "tare only" weighmaster certificate.

(3) Enter the required information on a daily seasonal truck tare recap sheet, furnished by the Division of Measurement Standards. This recap sheet will be mailed to the Division within two business days.

[The next page is 249.]

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722, 12723 and 12729, Business and Professions Code.

HISTORY

1. Editorial correction of printing error in subsection (a) (Register 83, No. 25).
2. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4432. Certificate Requirement.

A seasonal tare weight may be used by a weighmaster to determine the net weight of a commodity, provided the number of the cab card appears on the certificate.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12715, 12722, 12723 and 12729, Business and Professions Code.

HISTORY

1. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4433. Conditions of Use.

The following conditions apply to the use of cab cards:

- (a) a cab card shall be valid for a single tomato harvest season only; and
- (b) the cab card shall be carried at all times in the vehicle for which the seasonal tare weight has been established; and
- (c) the cab card shall be presented to the weighmaster when using the seasonal tare weight to certify the net weight of a load; and
- (d) the cab card shall not be used if the actual vehicle tare weight varies by more than 300 pounds from the tare weight stated on the cab card; and
- (e) a cab card on which the weight figures have been changed or altered in any manner shall not be used; and
- (f) a new cab card shall be obtained when the weight or vehicle identification information on the cab card changes; and
- (g) the cab card may be used by a weighmaster to determine the net weight of a load unless a party having a legal or financial interest in the transaction notifies the weighmaster prior to the issuance of the certificate that a seasonal tare weight (cab card) shall not be used.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722, 12723 and 12729, Business and Professions Code.

HISTORY

1. Amendment of subsections (c) and (g) filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).
2. Amendment of subsection (d) filed 10-19-92; operative 11-18-92 (Register 92, No. 43).

Article 5. Common Tare Weights

§ 4440. Common Tare Weight.

A common tare weight is the average weight of a group (lot) of containers or pallets, determined by a weighmaster prior to the time of delivery of the product.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. New NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4441. Establishing.

Common tare weights shall be established as follows:

- (a) The containers or pallets within the group (lot) shall each weigh 1,000 lbs. or less, shall be under the control of one user and shall be within a uniform weight range. "Uniform weight range" is defined to mean within a variation (plus or minus) of 0.2 pounds or 20%, whichever is greater.
- (b) The weighmaster shall weigh a randomly selected sample of containers or pallets, either individually or in sample subgroups, as prescribed in Section 4442 of this Article. The common tare weight for each container or pallet shall be determined by mathematically dividing the to-

tal weight of the random sample by the number of containers or pallets in the sample. At the time the random sample is weighed, all containers and pallets shall be free from foreign matter and in usable condition.

(c) The common tare weight determined from the sample shall be rounded as prescribed in Section 4443 of this Article.

(d) The weighmaster establishing the common tare weight shall issue a weighmaster certificate and complete a "Common Tare Notice" containing information prescribed by the Director. The originals of the weighmaster certificate and the Common Tare Notice shall be mailed to the Division of Measurement Standards within five (5) days. A copy of the Common Tare Notice shall also be maintained at each weighing location where the common tare weight will be used for certification purposes.

(e) The common tare weight established by the weighmaster shall only apply to the containers or pallets in the lot from which the random sample was selected.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of subsections (b) and (c) filed 7-15-83 (Register 83, No. 30).
2. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4442. Sample Size.

When determining or verifying common tare weights, the following sample size shall be used.

(a) For all pallets and any container used individually, the minimum size of the random sample shall be 96 or 100% of the lot, whichever is less.

(b) For all palletized containers, the minimum size of the random sample shall be determined from the following table:

<i>Number of Containers Per Pallet</i>	<i>Minimum Number of Pallets (with containers) in Random Sample</i>
Less than 10	96 or 100%, whichever is less
10 to 19	37 or 100%, whichever is less
20 to 49	22 or 100%, whichever is less
50 or more	11 or 100%, whichever is less

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4443. Rounding Procedures.

Common and average tare weights shall be rounded (digits of 5 or greater are rounded up) as follows:

(a) If the container tare weight is less than 30 pounds, the weight shall be rounded to the nearest one-tenth (0.1) pounds.

(b) If the container tare weight is at least 30 pounds or more, the weight shall be rounded to the nearest one (1) pound.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).
2. Amendment filed 7-21-87; operative 8-20-87 (Register 87, No. 30).

§ 4444. Certificate Requirements.

A common tare weight may be used by a weighmaster to determine the net weight of a commodity, provided the following information appears on the weighmaster certificate:

(a) the fact that a common tare weight is being used. This may be designated by the letters "C.T."; and

(b) the common tare weight, description of the container, and a name of the person or firm for whom the common tare weight has been established. A code designation may be used in lieu of the description of the container, provided this code also appears on the Common Tare Notice.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12715, 12722 and 12723, Business and Professions Code.

HISTORY

1. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4445. Conditions of Use.

The following conditions apply to the use of common tare weights:

(a) common tare weights may only be used by a weighmaster licensed at a location at which a copy of the Common Tare Notice is maintained; and

(b) common tare weights may be used by a weighmaster unless a party having a legal or financial interest in the transaction notifies the weighmaster prior to issuance of the certificate that a common tare weight shall not be used; and

(c) the weighmaster certifying to a common tare weight shall verify that the total number of containers includes not more than 10% of other users' containers and that all containers are within uniform weight range (as defined by Section 4441(a) of this Article); and

(d) a weighmaster shall not use a common tare weight if for any reason it appears that the common tare weight may not meet the tolerance levels prescribed by Section 4450.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction of subsection (c) filed 7-15-83 (Register 83, No. 30).
2. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).
3. Repealer of former subsection (d) and relettering of former subsection (e) to subsection (d) filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4446. Verification and Enforcement.

The Director may verify the accuracy of an established common tare weight by weighing a representative sample of containers, as prescribed by Section 4441 of this Article, and by rounding as prescribed by Section 4443, also of this Article. If a common tare weight is found to be beyond the tolerance levels established by Section 4450 of this Subchapter, the Director shall issue an order that the common tare weight not be used until re-established by a weighmaster.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction filed 7-15-83 (Register 83, No. 30).
2. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

Article 6. Limits of Permissible Error

§ 4450. Tolerance Levels.

Except as provided in Section 12722(b) of Chapter 7, Division 5 of the Business and Professions Code, vehicles and containers for which predetermined individual tare weights and common tare weights have been established shall be maintained as close as practicable to the established tare weight, but in no event shall such tare weights exceed the tolerance level of two-tenths (0.2) pound or two percent (2%) of the established tare weight, whichever is greater.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

Article 7. Average Tare Weights

§ 4460. Average Tare Weight.

An average tare weight is the average weight of a group (lot) of containers within uniform weight range (as defined by Section 4441(a) of this Subchapter) and established by a weighmaster. Average tare weights are determined for each load at the time of certification and are not used for subsequent loads.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction filed 7-15-83 (Register 83, No. 30).
2. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

§ 4461. Establishing.

(a) Average tare weights for containers of uniform weight range, under the control of one user, and used to transport any commodity, may either be established according to the procedures prescribed in Sections 4440-4445 (Common Tare Weights) of this Subchapter, or according to subsection (b) below.

If, however, the containers are of such construction or treatment as to vary in weight as a result of hydrocooling, the average tare weight must be established according to subsection (b) below.

(b) A weighmaster shall randomly select two (2) containers for the first fifty (50) containers in the lot, and one (1) additional container for each fifty (50) additional containers in the lot. However, at no time shall the random sample size be less than three (3) containers.

The average tare weight shall be determined by mathematically dividing the total weight of the random sample by the number of containers in the sample.

The average tare weight determined from the sample shall be rounded as prescribed in Section 4443 of this Subchapter. The weighmaster certificate issued for containers shall show the total number of containers, the number of sample containers, and the average tare weight.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. Editorial correction filed 7-15-83 (Register 83, No. 30).
2. Amendment of subsection (b) filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).

Article 8. Volumetric Conversion to Weight of Squid

§ 4470. Container Requirements.

The following conditions apply to containers used in volumetric conversion:

(a) containers used for removing squid from fishing boats shall be constructed of non-absorbent material and of such construction that they retain their shape when filled; and

(b) only full containers removed from the boat shall be subject to volumetric conversion; squid removed in partially filled containers shall be weighed.

NOTE: Authority cited: Sections 12027, 12734 and 12735, Business and Professions Code. Reference: Section 12734, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4471. Container Markings.

Each container shall be permanently marked on two sides, in numbers and letters at least three (3) inches (7.62 cm) in height, with the following information:

- (a) the company name or code;

- (b) the volume in cubic feet to the nearest 1/100 cubic foot; and
 (c) the tare weight of the container.

NOTE: Authority cited: Sections 12027, 12734 and 12735, Business and Professions Code. Reference: Section 12734, Business and Professions Code.

HISTORY

1. Editorial correction of NOTE filed 11-4-85; effective thirtieth day thereafter (Register 85, No. 47).

§ 4472. Certificate Requirements.

A weighmaster certificate which determines the weight of squid by volumetric conversion shall contain the following information:

- (a) number of full containers removed;
 (b) volume of each container (Volume = Height x Width x Length);
 (c) weight of squid per cubic foot, as established by the Director.
 (d) net weight determined by volumetric conversion (Total Weight = Number of Containers x Volume of Containers x Weight Per Cubic Foot);
 (e) number of partially filled containers;
 (f) net weight of squid in partially filled containers; and
 (g) total weight of squid received.

The above information may be shown in equation form:

EXAMPLE

Number of full containers	x		
Volume of each container		=	Net weight
	x		determined by volumetric
Weight per Cubic foot			conversion
		+	
Number of partially filled			Net weight of
containers (actually			squid in partially
weighed)			filled containers
		=	TOTAL WEIGHT
			OF SQUID
			RECEIVED

NOTE: Authority cited: Sections 12027, 12734 and 12735, Business and Professions Code. Reference: Sections 12713(b) and 12734, Business and Professions Code.

HISTORY

1. Editorial correction filed 7-15-83 (Register 83, No. 30).
 2. Amendment filed 4-25-86; effective thirtieth day thereafter (Register 86, No. 17).
 3. Amendment of Example filed 2-25-94; operative 3-28-94. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 94, No. 8).

Article 9. Director's Approval of Inspection of Weighmaster Records

§ 4480. Application.

These regulations shall apply to requests made to the Department of Food and Agriculture by a district attorney or district attorney's designated agent for inspection of weighmaster weight certificates or related documents pursuant to Vehicle Code Section 35557(a).

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

HISTORY

1. New Article 9 (Sections 4480-4486) filed 10-23-85; effective thirtieth day thereafter (Register 85, No. 43).

§ 4481. Definition of Designated Agent.

As used in these regulations, a designated agent of the district attorney is an individual within the district attorney's office and designated by the district attorney and authorized to make requests for inspection of weighmaster weight certificates or other related documents. Such designation shall be made in writing to the Director of the Department of Food and Agriculture by the district attorney.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

§ 4482. Information Required by the Director.

Any district attorney or designated agent of the district attorney who shall request inspection of any weighmaster weight certificates or related documents through the Department of Food and Agriculture shall certify that:

(a) He/she is the district attorney or district attorney's designated agent.

(b) He/she possesses a citation or copy of a citation issued for gross vehicle overweight, which has been referred by an Area Commander of the California Highway Patrol along with their reasons for believing that there may be an act of unlawful business practice, and requests the right to review records pertaining to trucks operated by the named company in the possession of specified weighmasters.

(c) He/she has served a copy of the request on an official of the named company, or is declining to do so for reasons specifically stated.

(d) He/she will reveal and discuss the findings from the review of these records with the named company prior to initiating any civil action against the company which is based in whole or in part on these records.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

§ 4483. Approval of Request.

If the Director of the Department of Food and Agriculture finds that the above conditions have been met, he/she shall issue a letter to the district attorney authorizing the district attorney or employees of the district attorney to inspect the records of those weighmasters to determine the number and extent of violations of Division 15, Chapter 5, Article 1 of the California Vehicle Code that may exist, related to the named company, covering a period of 30 days prior to and 30 days subsequent to the issuance of the identified citation.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

§ 4484. Denial of Request.

If the Director of the Department of Food and Agriculture finds that any of the above conditions have not been met, he/she shall issue a letter to the district attorney informing the district attorney that a letter authorizing inspection of weighmaster weight certificates or related documents has been denied, as well as the specific finding or findings upon which the denial was based.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

§ 4485. Applicability—District Attorney.

Nothing in these regulations shall be deemed to apply to any request by any district attorney or district attorney employee to obtain weighmaster weight certificates or related documents for purposes other than prosecuting a civil or criminal violation arising out of Division 15, Chapter 5, Article 1 of the California Vehicle Code.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

§ 4486. Applicability—Other Law Enforcement Agencies.

Nothing in these regulations shall be deemed to apply to or limit the rights of any law enforcement agency other than any district attorney's office to obtain such weighmaster weight certificates or related documents for any law enforcement purpose other than prosecuting a civil or criminal violation arising out of Division 15, Chapter 5, Article 1 of the California Vehicle Code.

NOTE: Authority cited: Section 12027, Business and Professions Code; and Section 35557, Vehicle Code. Reference: Section 35557, Vehicle Code.

Article 10. Timber Tare Weights

§ 4490. Definitions.

The following definitions apply to timber tare weights.

(a) A timber tare weight is the unladen weight of a vehicle or combination of vehicles, used to transport loads of logs, where an automated weight scaling program is used to determine the board foot volume of the load.

(b) Sample scale frequency is the number of loads of logs to be measured by a log scaler at a frequency agreed to by the buyer and seller, e.g., 1 in 4 loads must be measured by a log scaler.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722, 12723 and 12729, Business and Professions Code.

HISTORY

1. New Article 10 (sections 4490–4493) and section filed 11–29–93; operative 12–29–93 (Register 93, No. 49).

§ 4491. Establishing.

Timber tare weights shall be established in accordance with the following provisions:

(a) A timber tare weight shall be established, by a weighmaster, as the mathematical average of the actual tare weights of a vehicle for the first five consecutive loads hauled into the mill.

(b) After establishment, a timber tare weight for any vehicle shall be calculated from the mathematical average of the five most current actual tare weights. The frequency for updating the timber tare weight, after its establishment, shall be the same as the sample scale frequency and in no case less frequent than one in ten.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12722 and 12723, Business and Professions Code.

HISTORY

1. New section filed 11–29–93; operative 12–29–93 (Register 93, No. 49).

§ 4492. Certificate Requirements.

A timber tare weight may be used by a weighmaster to determine the net weight of timber: provided, disclosure that a timber tare weight is being used appears on the certificate immediately adjacent to the tare weight entry. This shall be designated by the letters “T.T.” and in addition to any information required by California Business and Professions Code, Division 5, Chapter 7.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12715, 12722 and 12723, Business and Professions Code.

HISTORY

1. New section filed 11–29–93; operative 12–29–93 (Register 93, No. 49).

§ 4493. Conditions of Use.

The following conditions apply to the use of timber tare weights:

(a) Timber tare weights shall be limited to sales where agreed to by all parties having a legal or financial interest.

(b) A weighmaster shall not use a timber tare weight which is not based on weighmaster records in their possession.

(c) Whenever the timber tare weight has not been updated for more than one hundred and twenty (120) days, a new timber tare weight shall be established for that vehicle.

(d) A current actual tare weight that differs from the timber tare weight for that vehicle by more than plus or minus two percent ($\pm 2\%$) must automatically cause the establishment of a new timber tare weight for that vehicle.

(e) When any vehicle fails to obtain a current tare weight when required by the program to update the timber tare weight, the existing timber tare weight shall be used for that load and the system must automatically cause the establishment of a new timber tare weight for that vehicle.

(f) Vehicles with cribs or inserts for short logs, mule trains, and self loaders shall not use a timber tare weight unless the cribs, inserts, or self loading apparatus are permanently installed.

(g) Timber tare weight information must be kept as part of the weighmaster records for a period of four (4) years. These records are to include, but are not limited to, tare weight records supporting timber tare weight updates, tare frequency and sample scaling frequency.

NOTE: Authority cited: Sections 12027, 12723 and 12735, Business and Professions Code. Reference: Sections 12716, 12722 and 12723, Business and Professions Code.

HISTORY

1. New section filed 11–29–93; operative 12–29–93 (Register 93, No. 49).

Article 11. Multiple Draft Weighing Operations

§ 4495. Application.

(a) These regulations shall apply to written requests made to the Department for authorization to use multiple draft static weighing operations.

(b) Also see General and Scales Code requirements, *California Code of Regulations, Title 4, Division 9, Chapter 1*.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New article 11 (sections 4495–4495.6) and section filed 9–9–99; operative 10–9–99 (Register 99, No. 37).

§ 4495.1. Definitions.

As used in this article:

(a) A multiple draft static weighing operation of a combination of vehicles is a weighing procedure whereby individual weights of connected vehicles in the combination are determined without the entire combination of vehicles resting on the scale platform simultaneously and without disconnecting the vehicles. Multiple draft static weighing operations and multiple draft weighing operations have the same meaning for the purpose of this article.

(b) A single draft static weighing operation is a weighing procedure whereby the entire vehicle or combination of vehicles is resting on the scale platform simultaneously.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9–9–99; operative 10–9–99 (Register 99, No. 37).

§ 4495.2. Request for Authorization.

A written request for authorization is limited to those operations where the applicant has complete control of all the vehicles and weighing device(s). The written request shall be submitted to the Department and shall contain the following information:

(a) The procedures that will be used in the multiple draft weighing operation. This shall include the specific weighing location, the weighing device(s) to be used, and the position of vehicles relative to the load-receiving element of the scale.

(b) The make, model and a unique identification designation for each individual vehicle.

(c) The test data supporting accuracy of the proposed multiple draft weighing operation.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9–9–99; operative 10–9–99 (Register 99, No. 37).

§ 4495.3. Conditions of Use.

(a) The pulled vehicle shall not be equipped with a braking system.

(b) The pulled vehicle shall have a minimum of two axles separated by such a distance that they completely support the load and also shall be equipped with a free-floating, non-rigidly mounted tongue.

(c) A copy of the letter issued by the Department authorizing the multiple draft weighing operation shall be maintained at the weighing location and made available to a Sealer upon request.

(d) All weights (gross and tare) shall be determined using the same authorized multiple draft weighing operation. “Gross Only” or “Tare Only” certificates are prohibited from being used when using a multiple draft weighing operation.

(e) The use of predetermined individual tare or common tare weights for pulled vehicles are prohibited when using a multiple draft weighing operation.

(f) A weighmaster shall not use a multiple draft weighing operation if for any reason it appears that the weights so determined may be beyond the tolerance level prescribed in Section 4495.5(f).

(g) Multiple draft weighing operations may not be used by a weighmaster if a party having a legal or financial interest in the transaction notifies the weighmaster prior to the issuance of the certificate that a multiple draft weighing operation shall not be used.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9-9-99; operative 10-9-99 (Register 99, No. 37).
2. Amendment of subsection (c) filed 2-3-2000; operative 10-9-99. Submitted to OAL for printing only (Register 2000, No. 5).
3. Change without regulatory effect amending subsection (f) filed 2-7-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 6).

§ 4495.4. Certificate Requirements.

When a multiple draft weighing operation is used by a weighmaster to determine the net weight of a product, the following information shall appear on the certificate:

(a) The fact that a multiple draft weighing operation is being used to determine the weights. This shall be designated by the words "Multiple Draft" immediately adjacent to both the gross and tare weights. As of January 1, 2000, the letters "M.D." may be substituted for the words "Multiple Draft".

(b) The identification of any connected vehicle not resting on the scale platform during certification.

These requirements are in addition to any other information required by California Business and Professions Code, Division 5, Chapter 7.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9-9-99; operative 10-9-99 (Register 99, No. 37).

§ 4495.5. Establishment and Tolerance.

Data shall be compiled showing that the method used in the multiple draft weighing operation for the specific location, vehicles, and connected combinations does not introduce or result in errors not in conformance with the requirements of this article when compared to a single draft weighing operation. All testing by the Department shall be consistent with verifying the accuracy of this method. If for any reason the verification testing fails or cannot be performed safely, testing will be terminated until the deficiencies are corrected and the written request for authorization is re-submitted to the Department.

The following procedures shall be used by weights and measures officials for authorizing multiple draft weighing procedures:

(a) The applicant shall provide accessibility to all identified equipment and they shall also provide assistance from trained facility representative(s) during the verification procedures.

(b) All single draft weighings will be performed with the vehicle(s) positioned in approximately the same location on the load-receiving element of the weighing device.

(c) Vehicles shall be tested as used in the normal course of business.

(d) Multiple draft weighings shall be performed in accordance with the applicant's written procedures.

(e) A maximum of 30 single draft and 30 multiple draft net weighments shall be performed for each requested authorization.

(f) At no time shall the net weights determined using a multiple draft weighing operation differ from those using a single draft weighing operation by more than twice the scale tolerance for that net load. A weightment that exceeds the established tolerance shall be sufficient grounds for the Department to deny authorization to use the multiple draft weighing procedure.

The Department shall issue a letter either authorizing use of the multiple draft weighing operation or rejecting the application within 30 days following the completion of verification procedures.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9-9-99; operative 10-9-99 (Register 99, No. 37).

§ 4495.6. Verification and Enforcement.

(a) When the gross weight or tare weight of a vehicle and connected combination is recorded on a weighmaster certificate, verification of that weight shall be made by reweighing the combination using the same multiple draft weighing operation authorized by the Department. At no time shall the reweigh weight differ from the recorded weight by more than twice the scale tolerance for that weightment.

(b) If a multiple draft weighing operation is found to produce weights that are beyond the established tolerance, the Department shall issue an order stating that the multiple draft weighing operation shall not be used until it is reestablished and reauthorized by the Department.

(c) Only the approved procedure shall be used when using a multiple draft weighing operation.

NOTE: Authority cited: Sections 12027, 12107 and 12735, Business and Professions Code. Reference: Section 12728(d)(2), Business and Professions Code.

HISTORY

1. New section filed 9-9-99; operative 10-9-99 (Register 99, No. 37).

Chapter 10. Quantity Control

Article 1. General

§ 4500. Standards for Fresh Berries.

Fresh berries shall be sold by net weight; or by volume in measure containers in specified capacities as follows:

(a) Strawberries—Dry pint (33.6 cubic inches; *net weight* 12 oz.), or dry quart (67.2 cubic inches; *net weight* 1 lb. 6 oz.).

(b) All other berries—Dry pint (33.6 cubic inches; *net weight* 12 oz.), or half dry pint (16.8 cubic inches; *net weight* 8 oz.). Half dry pints, dry pints, and dry quarts, when sold by volume, shall not be deemed to be packages for labeling purposes.

Berry containers (boxes, baskets or packaging in any manner), whether opened or covered shall not have a false bottom or be constructed as to facilitate deception or fraud.

NOTE: Authority cited: Sections 12027 and 12107.1, Business and Professions Code. Reference: Sections 12107.1 and 12601, Business and Professions Code.

HISTORY

1. New Subchapter 10 (Articles 1 and 2, Sections 4500-4521.29, not consecutive) filed 9-30-83; effective thirtieth day thereafter (Register 83, No. 40).
2. Amendment filed 3-10-89; operative 3-10-89 (Register 89, No. 11).
3. Editorial correction of subsections (a) and (b) printing error (Register 89, No. 33).

§ 4501. Fish Sales by Weight.

The provisions of Section 12024.5, Chapter 1, Division 5 of the California Business and Professions Code shall apply to the sale or advertisement for sale of fin fish and crustaceans, when sold for human consumption, and when not alive.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12024.5 and 12024.8, Business and Professions Code.

§ 4502. Wood for Fuel Purposes.

NOTE: Authority cited: Sections 12027 and 12107.1, Business and Professions Code. Reference: Section 12107.1, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 4502 to section 4531 filed 7-12-90; operative 8-11-90 (Register 90, No. 35).

§ 4503. Gravimetric Testing of Fluid Products and Products Sold by Count.

Products sold by fluid measure or by count may be tested gravimetrically, by weights and measures officials, using procedures established by the Director. These procedures shall incorporate a statistical sampling plan established by Title 4, Chapter 8, Subchapter 2, Article 5, Sections 2930 through 2933.3.20 inclusive.

NOTE: Authority cited: Sections 12027, 12608 and 12609, Business and Professions Code. Reference: Sections 12608 and 12609, Business and Professions Code.

HISTORY

1. Editorial correction filed 1-6-84 (Register 84, No. 1).

Article 2. Uniform Packaging and Labeling Regulation

§ 4510. Application.

The packaging and labeling regulations as set forth in the most recent publication of the National Institute of Standards and Technology's

Handbook 130, Uniform Laws and Regulations are herein adopted by reference as the packaging and labeling requirements for packaged commodities with the following exceptions and additional requirements.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12601 and 12609, Business and Professions Code.

HISTORY

1. Repealer and new article 2 and section filed 10-3-94; operative 11-2-94 (Register 94, No. 40). For prior history, see Register 87, No. 24.

[The next page is 253.]

§ 4511. Exceptions.

The following sections in the Uniform Packaging and Labeling Regulation in the National Institute of Standards and Technology Handbook 130 are not adopted or incorporated by reference.

- (a) Section 2.11. Petroleum Products.
- (b) Section 6.13. Character of Declaration: Average.
- (c) Section 7.6. Character of Declaration: Average.
- (d) Section 12. Variation to be Allowed.
- (e) Section 13. Retail Sale Price Representations.
- (f) Section 14. Revocation of Conflicting Regulations.
- (g) Section 15. Effective Date.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12601 and 12609, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4512. Additional Requirements.

The following requirements apply in addition to those contained within the Uniform Packaging and Labeling Regulation in the National Institute of Standards and Technology Handbook 130.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603 and 12610, Business and Professions Code.

HISTORY

1. Repealer and new section filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4512.1. Polyethylene Products.

The declaration of quantity of contents for polyethylene products shall be as follows:

- (a) Consumer and nonconsumer packages of sheeting and film.
 - Length and width.
 - Area in square meters or square feet.
 - Thickness in micrometers and mils.
 - (1 mil = 0.001 in = 25.4 micrometers)
 - Weight.
- (b) The following consumer products sold at retail shall be labeled in the following terms:
 - (1) Food wrap.
 - Length and width.
 - Area in square meters or square feet.
 - (2) Lawn and trash bags.
 - Count.
 - Dimensions.
 - Thickness in micrometers and mils.
 - Capacity.
 - (3) Food and sandwich bags.
 - Count.
 - Dimensions.
 - Capacity (except for fold-over sandwich bags).
- (c) Bags not intended for the retail consumer shall be labeled in terms of:
 - Count.
 - Dimensions.
 - Thickness in micrometers or mils.
 - Weight.
 - Capacity.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603 and 12610, Business and Professions Code.

HISTORY

1. New section filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4512.2. Animal Bedding.

Packaged animal bedding of all kinds, except for baled straw, shall be labeled by volume, that is by cubic meter, liter, or milliliter, and by the cubic yard, cubic foot, or cubic inch. If the commodity is packaged in a

compressed state, the quantity declaration shall include both the quantity in the compressed state and the usable quantity that can be recovered. Example: “250 ml – expands to 500 ml (500 cu in expands to 1000 cu in).”

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603 and 12610, Business and Professions Code.

HISTORY

1. New section filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4512.3. Enforcement.

A sealer may by written order forbid the display for sale, sale, or transport of any package which does not bear the labeling required by Chapter 6, of Division 5 of the Business and Professions Code.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12601, 12607, 12609 and 12611, Business and Professions Code.

HISTORY

1. New section filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4513. Declaration of Identity: Consumer Package.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12610 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4513.1. Parallel Identity Declaration: Consumer Package.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12610 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4514. Declaration of Identity: Nonconsumer Package.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12610 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4515. Declaration of Responsibility: Consumer and Nonconsumer Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.* Declaration of Quantity: Consumer Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Editorial correction filed 1-6-84 (Register 84, No. 1).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.1.* Largest Whole Unit.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.2.* Net Quantity.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.2.1. Use of “Net Weight.”

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.2.2. Lines of Print or Type.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.3. Terms: Weight, Liquid Measure, Dry Measure, or Count.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.3.1. Combination Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.4. Inch-Pound Units: Weight, Measure.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of heading and subsection (b) filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.4.1. Symbols and Abbreviations.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).
2. Editorial correction of Authority cite (Register 95, No. 8).

§ 4516.4.2. Units of Two or More Meanings.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.5. Metric Units: Weight, Measure.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of subsection (b) filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.5.1. Symbols.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6. Prescribed Units, Inch-Pound System.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.1.* Less than 1 Foot, 1 Square Foot, 1 Pound or 1 Pint.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of section number adding asterisk only filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.2.* Weight: Dual Quantity Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of section number adding asterisk only filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.3. Liquid Measure: Dual Quantity Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.4. Length Measure: Dual Quantity Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.5. Area Measure: Dual Quantity Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.6. Four Feet, Four Square Feet, Four Pounds, One Gallon, or More.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.6.7. Bidimensional Commodities.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.7. Prescribed Units, Metric System.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.7.1.* Less than 1 Meter, 1 Square Meter, 1 Kilogram, or 1 Liter.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of section number adding asterisk only filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.7.2. One Meter, 1 Square Meter, 1 Liter or More.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.7.3. Bidimensional Commodities.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.8.* Count: Ply.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.9. Fractions.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.10. Supplementary Declarations.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.10.1. Supplementary Quantity Declarations.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12605, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.10.2. Combined Metric and Inch-Pound Declarations.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12605, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.10.3. Rounding.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12605, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4516.11. Qualification of Declaration Prohibited.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12605, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517. Declaration of Quantity. Nonconsumer Packages; General.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.1. Location.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.2. Terms: Weight, Liquid Measure, Dry Measure, or Count.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.3. Inch-Pound Units: Weight, Measure.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of subsection (b) filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.3.1. Symbols and Abbreviations.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.4. Metric Units: Weight, Measure.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Amendment of subsection (b) filed 5-27-87; operative 6-26-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.4.1. Symbols.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4517.5.* (Reserved)

HISTORY

1. Repealer of section number filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518. Prominence and Placement: Consumer Packages.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1. General.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1.1. Location.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1.2. Style of Type or Lettering.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1.3. Color Contrast.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1.4. Free Area.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.1.5. Parallel Quantity Declaration.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.2. Calculation of Area of Principal Display Panel for Purposes of Type Size.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Editorial correction of subsection (2) (Register 84, No. 1).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.2.1. Minimum Height of Numbers and Letters.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4518.2.2. Numbers and Letters: Proportion.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4519. Prominence and Placement: Nonconsumer Packages.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520. Requirements: Specific Consumer Commodities, Nonconsumer Commodities, Packages, Containers.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.1. Display Card Package.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.2.* (Reserved)

HISTORY

1. Repealer of section number filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.3. Aerosols and Similar Pressurized Containers.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Editorial correction of printing error (Register 84, No. 1).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.4. Multi-Unit Packages.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.5. Combination Packages.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.6. Variety Packages.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.7. Cylindrical Containers.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8. Measurement of Container-Type Commodities, How Expressed.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.1.* General.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.2. Capacity.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.3.* Terms.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.4.* Polyethylene Commodities.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.4.1.* Polyethylene Sheeting, Bags, Lay Flat Tubing, Sheets, Drop Cloths and Tarpaulins.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Section 12601, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.4.2.* Quantity Declarations.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604 and 12610, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.8.4.3.* Exemptions.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604 and 12610, Business and Professions Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 5-27-87; operative 6-27-87 (Register 87, No. 24).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9. Textile Products, Threads, and Yarns.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9.1.* Wearing Apparel.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9.2.* Textiles.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Editorial correction of subsection (c) filed 1-6-84 (Register 84, No. 1).
2. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9.3.* (Reserved)

HISTORY

1. Repealer of section number filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9.4.* Exemption: Variety Textile Packages.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.9.5.* Sewing Threads, Handicraft Threads, and Yarns.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4520.10.* Packaged Seed.

NOTE: Authority cited: Sections 12027, 12603, 12609 and 12610, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521. Exemptions.

HISTORY

1. Repealer of section heading filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.1. General.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.2.* Random Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.3.* Small Confections.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.4.* Individual Servings.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.5.* Cuts, Plugs, and Twists of Tobacco and Cigars.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.6.* Reusable (Returnable) Glass Containers.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.7.* Cigarettes and Small Cigars.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.8.* Packaged Commodities with Labeling Requirements Specified in Federal Law.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.9.* Fluid Dairy Products, Ice Cream, and Similar Frozen Desserts.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.10. Single Strength and Less Than Single Strength Fruit Juice Beverages, Imitations Thereof, and Drinking Water.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.11.* Soft-Drink Bottles.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.12. Multi-Unit Soft-Drink Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.13. Butter.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.14.* Eggs.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.15.* Flour.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.16.* Small Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.17.* Decorative Containers.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.18.* Combination Packages.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.19.* Margarine.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.20.* Corn Flour and Corn Meal.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.21.* Prescription and Insulin-Containing Drugs.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.22.* Camera Film.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.23.* Paints and Kindred Products.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.24. Automotive Cooling System Antifreeze.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609, 12611 and 13705, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.25.* Motor Oils.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609, 12611 and 13480, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.26.* Pillows, Cushions, Comforters, Mattress Pads, Sleeping Bags, and Similar Products.**HISTORY**

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.27. Commodities' Variable Weights and Sizes.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.28. Packaged Commodities Sold by Count.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4521.29.* Fishing Lines and Reels.

NOTE: Authority cited: Sections 12027, 12603 and 12609, Business and Professions Code. Reference: Sections 12601, 12602, 12603, 12604, 12608, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

§ 4522.* Enforcement.

NOTE: Authority cited: Sections 12027 and 12609, Business and Professions Code. Reference: Sections 12601, 12607, 12609 and 12611, Business and Professions Code.

HISTORY

1. Repealer filed 10-3-94; operative 11-2-94 (Register 94, No. 40).

Article 3. Wood for Fuel Purposes**§ 4530. Definitions.**

The following definitions apply to this article only and do not affect the provisions of any other section, article, or chapter. Nothing in this article shall be deemed to apply to charcoal sold for fuel purposes.

(a) Bulk Firewood. All firewood which is not packaged and all packaged firewood of quantities greater than four cubic feet.

(b) Cord. The cord is the standard measure for bulk firewood, and shall contain 128 cubic feet of wood, ranked and well-stowed.

(c) Firewood. "Firewood" has the same meaning as "wood for fuel purposes".

(d) Kindling. Small pieces of wood that are readily ignited and primarily used in starting a fire.

(e) Manufactured Products. Compressed or non-compressed products for fuel purposes made from, but not limited to, sawdust, treated or untreated chips or chunks, cut or split wood.

(f) Other Terms. The use of the terms "face cord," "rack," "rick," "tier," "pile," or "truck-load," or any other term describing a unit of measure different than those specified in this article shall be prohibited.

(g) Ranked and Well-stowed. Wood placed in a row or rows, with individual pieces touching and parallel to each other and stacked in a compact manner minimizing spaces between pieces.

(h) Sell. "Sell" has the same meaning as defined in Business and Professions Code section 12009.

(i) Wood for Fuel Purposes. Any kindling, logs, boards, timbers, slab wood, mill wood, manufactured products, cut timber, or other wood, split or not split, used for or intended to be used for campfires, or for heating in fireplaces or stoves, or for cooking.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 7-12-90; operative 8-11-90 (Register 90, No. 35).

2. Amendment of first paragraph, new subsections (a) and (c), and amendment of newly designated subsections (b) and (d) filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4531. Method of Sale.

Wood, for fuel purposes, shall be sold or offered for sale by cord measure, fraction of the cord, or percentage of the cord, excepting as herein-after provided.

(a) Wood for fuel purposes, other than manufactured products, when sold in quantities less than one-eighth cord, shall be sold by the cubic foot or fraction of the cubic foot.

(b) Manufactured products for fuel purposes shall be sold as follows:

(1) Compressed products having any dimension greater than six inches shall be sold by weight and count.

(2) Compressed products not greater than six inches in any dimension shall be sold by weight.

(3) Non-compressed products not greater than six inches in any dimension shall be sold by the cubic foot or fraction of the cubic foot.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 4502 to section 4531, and numbering of undesignated paragraphs into subsections (a) and (b) filed 7-12-90; operative 8-11-90 (Register 90, No. 35).

§ 4532. Invoice.

A sales invoice or delivery ticket shall be presented by the seller to the purchaser whenever any non-packaged wood for fuel purposes is sold. The sales invoice or delivery ticket shall contain at least the name and address of the seller, the date purchased or delivered, the quantity purchased, and the price of the quantity purchased.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 7-12-90; operative 8-11-90 (Register 90, No. 35).

§ 4533. Kindling.

Whenever kindling is included as part of the represented quantity and is ten percent or more by volume of the represented quantity, the percentage of kindling, within five percent by volume, shall be stated on the label or sales invoice or delivery ticket.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 7-12-90; operative 8-11-90 (Register 90, No. 35).

§ 4534. Identity.

Whenever there is a representation as to the species, species group of origin, or the type of wood, the representation or statement of identity shall be consistent with one of the following:

(a) If a common name is stated, all wood shall be of that species (e.g. White Oak, Jeffery Pine, Grand Fir, etc.).

(b) If a group is stated, all wood shall be of that same group of origin (e.g. oak, pine, fir, etc.).

(c) If either hardwood or softwood is stated, all wood must be of that type and the common name or group of origin for any wood present must be stated. If there is a mixture of types (hardwood and softwood), the percentage of each, within 10% by volume of each, shall be stated. The volume of each shall be determined as per the volumetric test procedures set forth below.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 7-12-90; operative 8-11-90 (Register 90, No. 35).
2. Amendment of subsection (c) filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4535. Volumetric Test Procedure for Bulk Firewood.

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

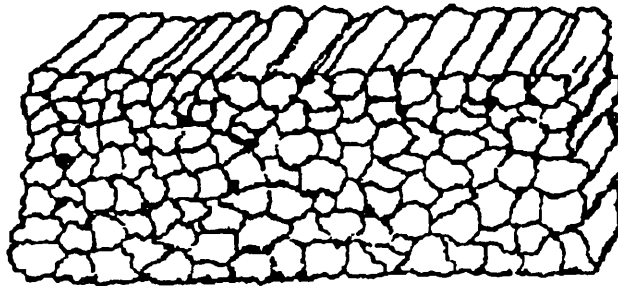
§ 4535.1. Stacking:

(a) Firewood shall be measured when ranked and well-stowed, and stacked in a geometrical shape that will facilitate volume calculations (i.e., rectangular, triangular or combination of the two). The stack may need some adjustment to meet these requirements. (See Figure 1.)

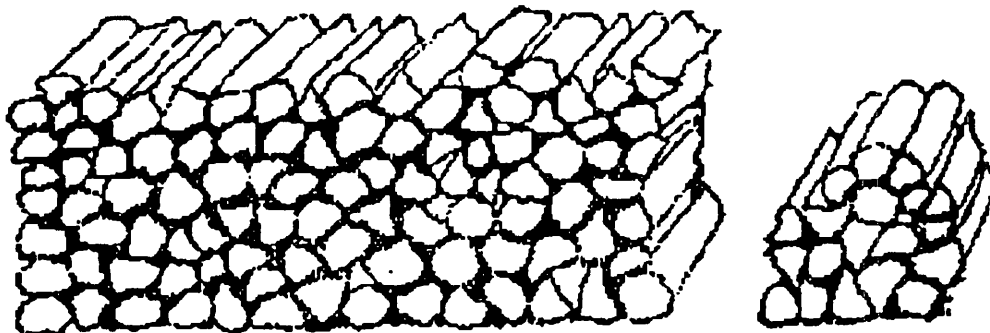
NOTE: If the wood is stacked in multiple rows, the measurements of the individual rows are used to determine the volume of the total stack.

Figure 1.

Cord of 128 cubic feet ranked and well-stowed.



Same cord of 128 cubic feet that is not ranked and well-stowed. Shows overage!



NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4535.2. Measuring:

NOTE: A calibrated linear measure shall be used.

All measurements shall be taken in increments no greater than 1/8 inch and rounded up.

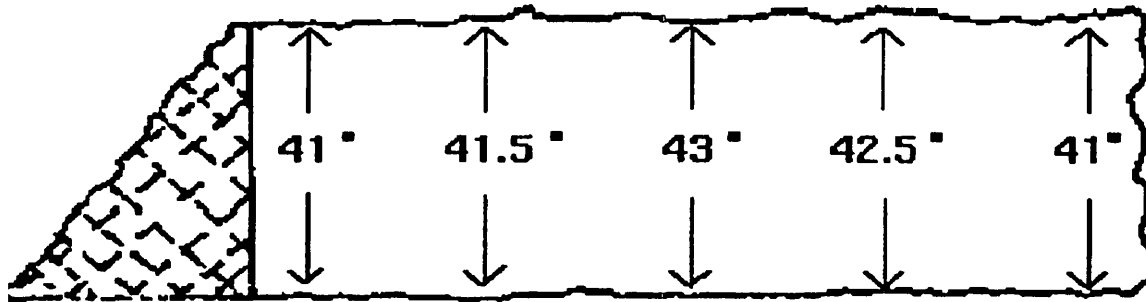
More measurements than specified may be taken.

(a) Measurement of the rectangular portion of a stack.

(1) Average height determination of a rectangular stack: Starting at

one end of the stack, measure the height of the stack, on both sides, at approximately 2 foot intervals, along the length of the stack, or at four proportionately equal intervals if the stack is less than 6 feet long. (Minimum of 4 measurements on each side shall be taken.) Calculate the average height. (See Figure 2.)

Figure 2. Height of Stack.

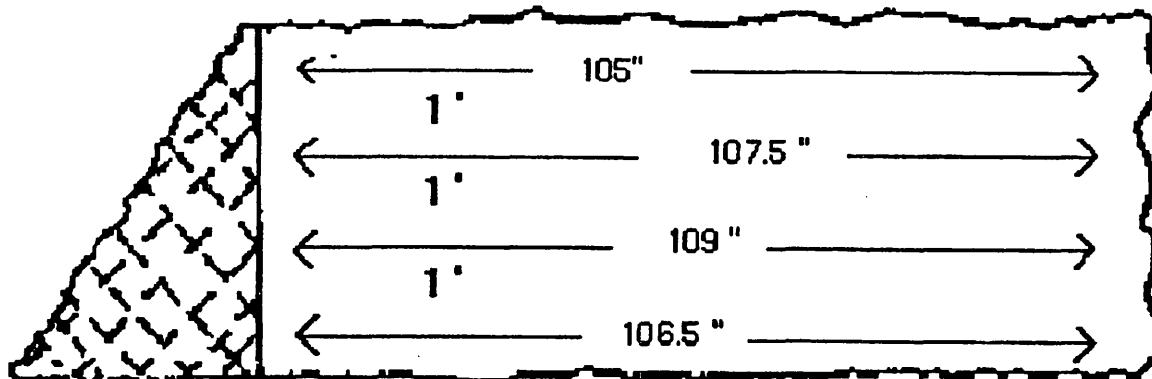


$$\text{Average Height} = (41'' + 41.5'' + 43'' + 42.5'' + 41'') \div 5 = 41.8 \text{ inches}$$

(2) Average length of a rectangular stack determination: Starting at the base, measure the length of the stack at approximate 1 foot intervals up to the top, or at four proportionately equal intervals if the stack is less

than 3 feet high. (Minimum of 4 measurements shall be taken.) Calculate the average length. (See Figure 3.)

Figure 3. Length of Stack.



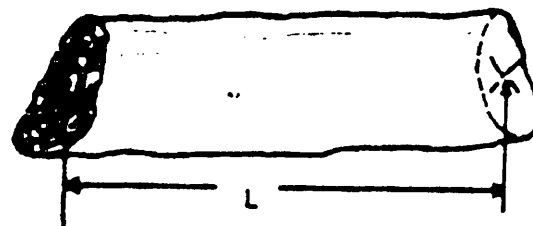
$$\text{Average Length} = (106.5'' + 109'' + 107.5'' + 105'') \div 4 = 107 \text{ inches}$$

(3) Average width of stack determination: This dimension is calculated by averaging the length of individual pieces of wood. A representative random sample of the individual pieces shall be selected. If a triangular stack is combined with a rectangular stack, the sample shall be selected randomly from the entire stack. The minimum size of the sample shall be as shown in the following table.

<i>Amount Represented</i>	<i>Number of Pieces</i>
1/2 cord and less	12
More than 1/2 cord to 1 cord	24
Over 1 cord to 1-1/2 cords	36
Over 1-1/2 cords to 2 cords	48
Over 2 cords	48 plus 12 for each 1/2 cord or fraction thereof

Measure the length of the pieces, measuring from center-to-center, as shown in Figure 4. Calculate the average length.

Figure 4. Length of Angle-Cut Log.

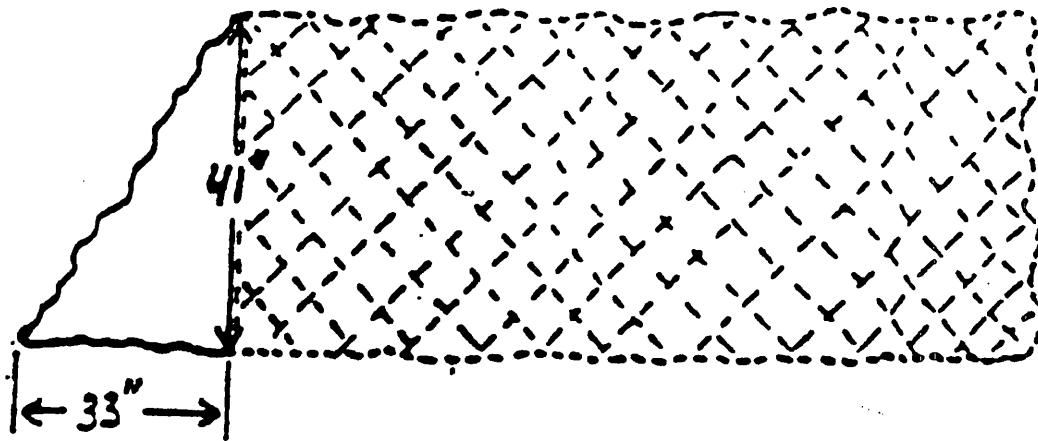


$$\text{Average Length} = (18'' + 18.25'' + 19'' + 17.75'' + 18.5'' + 18'') \div 6 = 18.25 \text{ inches}$$

(b) Measurement of the triangular portion of a stack:

(1) Measure the height and the base of the triangular portion. (See Figure 5.)

Figure 5. Triangular Measurements.



(2) Average width of the stack is as previously calculated in Section 4535.2.(a)(3).

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4535.3. Calculate the volume:

(a) Volume of the rectangular portion = average height of the stack x average length of the stack x average width of the stack.

(Example: $41.8'' \times 107'' \times 18.25'' = 81,624.95$ cubic inches.)

(b) Volume of the triangular portion = height x base length x average width of the stack divided by 2.

(Example: $41'' \times 33'' \times 18.25'' \div 2 = 12,346.125$ cubic inches.)

(c) Volume of the combined portions = volume of the rectangular portion + volume of triangular portion.

(Example: $81,624.95$ cu in + $12,346.125$ cu in = $93,971.075$ cubic inches.)

NOTE: For stacks with multiple rows, the volume of the total stack is the sum of the volumes of the individual rows.

(d) Volume of stack in cords = volume of stack in cubic inches divided by 221.184 cubic inches per cord.

(Example: $93,971.075$ cu. in. \div $221,184$ cu. in. per cord = 0.42 cords.)

(e) Percentage of the cord = decimal fraction of the cord times 100. (Example: 0.42 cords \times $100 = 42\%$ [Percent].)

TABLE OF EQUIVALENTS				
1 cubic foot = 1,728 cubic inches				
1 cord = 128 cubic feet = 221,184 cubic inches				
Common Fractions		Decimal Fractions		Percentages
1/8	=	.125	=	12.5%
1/4	=	.25	=	25%
3/8	=	.375	=	37.5%
1/2	=	.5	=	50%
5/8	=	.625	=	62.5%
3/4	=	.75	=	75%
7/8	=	.875	=	87.5%

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code.

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4536. Volumetric Test Procedure for Packaged Firewood With a Labeled Net Content of Four Cubic Feet or Less.

NOTE: A calibrated linear measure shall be used.

All measurements shall be taken in increments no greater than 1/8 inch and rounded up, except as noted in 4536.1(a).

Unless otherwise indicated, all measurements are to be taken without rearranging the wood or removing it from the package.

If the layers of wood are cross hatched or not ranked in discrete sections in the package, the wood shall be removed from the package and measured according to the procedures prescribed in Sections 4535.1 through 4535.3 of this regulation.

Lot compliance shall be determined using the sampling procedures in Chapter 11 of this Division, except that the maximum allowable variations for individual packages labeled by volume shall not be applied to packaged firewood.

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code; and *California Hotwood, Inc. v. Henry Voss, et al.* (Super. Ct. San Joaquin County, 1991, No. 234613).

HISTORY

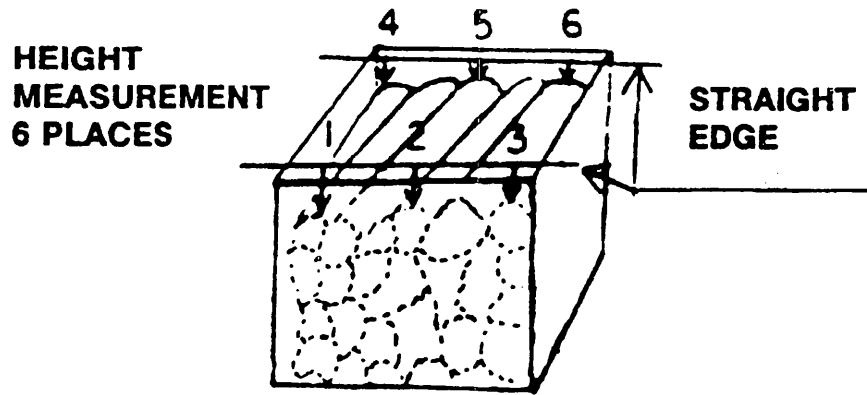
1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

§ 4536.1. Boxed Firewood.

(a) Average height determination of wood within the box: Open the box and measure the internal height of the box (h). Take three measurements (d) along each end of the stack by measuring from the bottom of a straight edge placed across the top of the box to the highest point on the two outermost top pieces of wood and the center-most top piece of wood rounding measurements down to the nearest 1/8 inch. However, if there

are obviously pieces missing out of the top layer of wood, additional height measurements shall be taken at the highest point of the uppermost pieces of wood located at the midpoints between the three measurements on each end of the stack. (See Figure 6.) The average height of the stack is calculated by averaging these measurements and subtracting from the internal height of the box.

Figure 6.



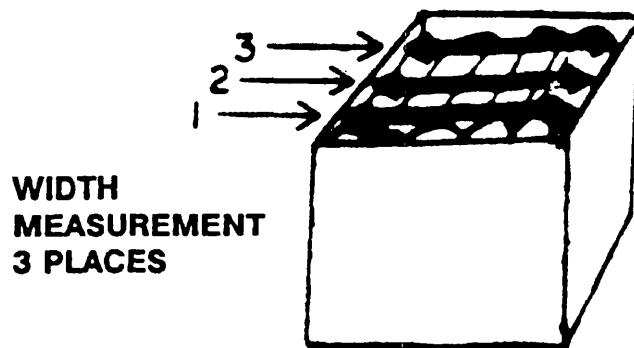
Calculate the average height of stack.

$$\text{Average Height of Stack} = h - [(d^1 + d^2 + d^3 + d^4 + d^5 + d^6) \div 6]$$

(b) Average width of the wood within the box: Determine the width of the stack of wood at three places along the top of the stack. These

measurements shall be taken on both ends and in the middle of the box, measuring the inside distance from one side of the box to the other, perpendicular to the long axis of the wood. (See Figure 7.)

Figure 7.



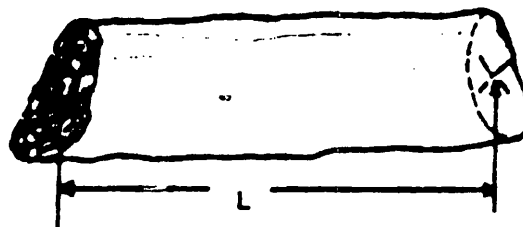
Calculate the average width.

$$\text{Average Width} = (W^1 + W^2 + W^3) \div 3$$

(c) Average length of the pieces of wood: Remove the wood from the

box and select the five pieces with the greatest girth. Measure the length of the five pieces, measuring from center-to-center, as shown in Figure 8.

Figure 8.



Calculate the average length of the five pieces.

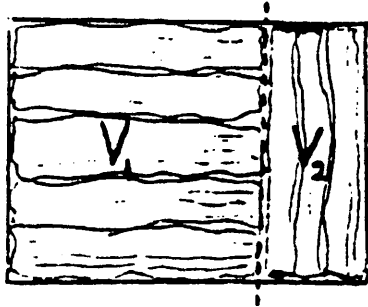
$$\text{Average Length} = (L^1 + L^2 + L^3 + L^4 + L^5) \div 5$$

(d) Calculate the volume of the wood within the box.

$$\begin{array}{ccccccc} \text{Volume of Wood} & & \text{Average Height} & & \text{Average Width} & & \text{Average Length} \\ (\text{In cu ft}) & = & (\text{In inches}) & \times & (\text{In inches}) & \times & (\text{In inches}) \\ & & & & & & \div 1728 \text{ In}^3/\text{ft}^3 \end{array}$$

(e) For boxes of wood which are packed with the wood ranked in two discrete sections, which are perpendicular to each other, calculate the volume of wood in the box by determining the average height, width, and length as in (a), (b), and (c) above for each discrete section and totaling the calculated volumes of the two sections. Except that the width measurement for V_2 shall be taken from the inside edge of the box adjacent to V_2 to the plane separating V_1 and V_2 . (See Figure 9.)

Figure 9.



$$\text{TOTAL VOLUME} = V_1 + V_2$$

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code; and *California Hotwood, Inc. v. Henry Voss*, et al. (Super. Ct. San Joaquin County, 1991, No. 234613).

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).
2. Editorial correction of formulas in subsections (a)-(d) (Register 96, No. 10).

§ 4536.2. Bundles and Bags of Firewood.

(a) Average area of ends: Secure a strap around each end of the bundle or bag of wood to prevent movement during testing and to provide a definite perimeter. Set one end of the bundle or bag on tracing paper large enough to cover the end completely. Draw a line around the perimeter of the bundle or bag on the tracing paper. Transfer the tracing paper to a template graduated in square inches. Count the number of square inches enclosed within the perimeter line (portions of square inches not completely within the perimeter line shall be estimated to the nearest one quarter square inch). Repeat this process on the opposite end of the bundle or box. Calculate the average area.

$$\text{Average Area} = (\text{Area \#1} + \text{Area \#2}) \div 2$$

NOTE: Two thin straps, one inch to two inches wide, with connecting buckles, and long enough to easily encircle the bundle or bag, should be used to secure the wood.

(b) Average length of the pieces of wood: Select the five pieces with the greatest girth. Measure the length of the pieces as shown in Figure 8 for boxed wood.

Calculate the average length of the pieces of wood.

$$\text{Average Length} = (L^1 + L^2 + L^3 + L^4 + L^5) \div 5$$

(c) Calculate the volume of the wood.

$$\begin{array}{ccccccc} \text{Volume of Wood} & & \text{Average Area} & & \text{Average Length} \\ (\text{In cu ft}) & = & (\text{In Inches}) & \times & (\text{In Inches}) \\ & & & & \div 1728 \text{ In}^3/\text{ft}^3 \end{array}$$

NOTE: Authority cited: Sections 12024.11, 12027 and 12107.1, Business and Professions Code. Reference: Sections 12024.11 and 12107.1, Business and Professions Code; and *California Hotwood, Inc. v. Henry Voss*, et al. (Super. Ct. San Joaquin County, 1991, No. 234613).

HISTORY

1. New section filed 9-25-95; operative 3-1-96 (Register 95, No. 39).

2. Editorial correction of formula in subsection (c) (Register 96, No. 10).

Chapter 11. Sampling and Testing Procedures for Determining the Net Contents of Packaged Commodities

Article 1. Definitions

§ 4600. National Uniformity.

Sampling and testing procedures for determining the net contents of packaged commodities shall conform to the latest requirements set forth in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," which is herein incorporated by reference. Copies of Handbook 133 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Section 12211, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer of article heading and section and new section filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4601. Commodity.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Repealer filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4602. Declaration of Identity.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Repealer filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4603. Distribution.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Repealer filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4604. Error.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Repealer filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4605. Established Gray Area (EGA).

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12-20-90; operative 1-19-91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1-5-96; operative 1-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4625. Tare.

EXCEPTION: Fresh red meat such as beef, lamb and pork – Free flowing natural juice within the package is not considered tare except when moisture loss allowances apply.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4626. Unreasonable Error.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

Article 2. Sampling and Testing Procedures for Determining the Net Contents of Packaged Commodities

§ 4650. Application.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer of article heading and section filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4651. (Step 1).

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652. Procedures Common to All Groups.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction deleting duplicate text (Register 92, No. 25).
3. Editorial correction of section heading and restoration of text (Register 95, No. 27).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.1. (Step 2) Sampling Criteria.

NOTE: Nothing in this procedure shall prohibit an official from increasing the sample size to one of the larger sample sizes in Table 1 provided the tare sample size, and the allowable number of unreasonable errors, and the correction factor are adjusted accordingly.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.2. (Step 3) Sample Selection.

NOTE: The marked contents of a random pack lot is the average labeled net contents of the sample.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.3. (Step 4) Average Tare Determination.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing error in subsection (a) (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.4. (Step 5) Recording of Package Errors.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.5. (Step 6) Total Error (TE) Determination.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4652.6. Continuing Procedures for Group A, B, or C.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4653. Additional Procedures for Group A Type Commodities.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction deleting duplicate text (Register 92, No. 25).
3. Editorial correction of section heading and restoration of text (Register 95, No. 27).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4653.1. (Step 7) Average Error Determination.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4653.2. (Step 8) Determination of Lot Compliance.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Editorial correction of subsection (b)(4) (Register 95, No. 8).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4653.3. 100 Percent Inspection.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4654. Additional Procedures for Group B Type Commodities.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction deleting duplicate text (Register 92, No. 25).
3. Editorial correction of section heading and restoration of text (Register 95, No. 27).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4654.1. (Step 7) Computation of Gray Area.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing error (Register 92, No. 25).
3. Editorial correction (Register 95, No. 8).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4654.2. (Step 8) Average Error Determination.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4654.3. (Step 9) Determination of Lot Compliance.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4654.4. 100 Percent Inspection.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4655. Additional Procedures for Group C Type Commodities.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction deleting duplicate text (Register 92, No. 25).
3. Editorial correction of section heading and restoration of text (Register 95, No. 27).
4. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4655.1. (Step 7) Computation of Moisture Loss Allowance.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4655.2. (Step 8) Average Error Determination.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4655.3. (Step 9) Determination of Lot Compliance.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4655.4. 100 Percent Inspection.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4656. Off Sale Procedure.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction of printing errors (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

§ 4657. Enforcement Action on Lots of 250 or Fewer Packages.

NOTE: Authority cited: Sections 12027, 12211 and 12609, Business and Professions Code. Reference: Sections 12211 and 12609, Business and Professions Code.

HISTORY

1. New section filed 12–20–90; operative 1–19–91 (Register 91, No. 9).
2. Editorial correction reinserting NOTES in Tables 1–3 and 5–7 (Register 92, No. 25).
3. Repealer filed 1–5–96; operative 1–5–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 1).

[The next page is 260.15.]

Chapter 12. Administration

Article 1. Permit Reform Act

§ 4700. Permit Processing Times (including Licenses, Permits, Registrations and Certificates).

(a) Within the number of calendar days of receipt of an application for a permit shown in column A of subsection (c), the Division shall inform the applicant in writing that the application is either complete and ac-

cepted for filing, or that it is deficient, and what specific information or documentation is required to complete the application. An application is considered complete if all necessary fees and information required by the application form have been submitted.

(b) Within the number of calendar days after receipt of a complete application, as shown in column B of subsection (c), the Department shall approve or disapprove the application.

(c) The Division's minimum, median, and maximum time periods, in calendar days, for processing an application from the receipt of the initial application to the final decision, based on the Department's actual performance during the two years immediately preceding the proposal of this section, are shown in columns C, D, and E of the chart which follows.

Permit Type	A	B	ACTUAL DAYS TO PROCESS BASED ON PRIOR TWO YEARS		
	Maximum time for notifying that application is complete or deficient (Days)	Maximum time after receipt of a complete application to issue or deny permit (Days)	Minimum	Median (Days)	Maximum
Device Repairman Registration	30	35	1	6	52
— Renewal	7	60	1	17	66
Weighmaster License	15	45	2	12	84
— Renewal	45	45	2	12	84

NOTE: Authority cited: Section 15376, Government Code; and Section 12027, Business and Professions Code. Reference: Section 15376, Government Code.

HISTORY

1. Change without regulatory effect pursuant to section 100, Title 1, California Code of Regulations adding section 4700 filed 5-2-90; operative 5-2-90 (Register 90, No. 24).

§ 4701. Appeal Procedure.

(a) The following information shall be included on application forms for all Department permits subject to Government Code sections 15374-15378:

"The Department of Food and Agriculture has established time periods for the processing of permit applications, in compliance with Government Code section 15374-15378. Failure to comply with these time periods may be appealed to the Secretary of Food and Agriculture, 1220 N Street, P.O.Box 942871, Sacramento, CA 94271-0001, pursuant to regulations set forth in Title 4, California Code of Regulations, section 4701. Under certain circumstances, the Secretary may order that the applicant receive a reimbursement of filing fees."

(b) An applicant whose application for a permit has not been processed by the Department within the time periods established by section 4700 may appeal in writing to the Secretary of the Department of Food and Agriculture. The appeal shall set forth a concise statement of facts and chronology of events regarding the application. An appeal concerning a permit application on which a final decision has been made must be filed within 30 days of the date the applicant was notified of the decision.

(c) The Secretary shall promptly review an appeal filed under this section and, shall issue a decision within 30 days after conducting any investigation of the matter which the Secretary deems appropriate.

(d) If the Secretary finds that a program exceeded the time limit for informing the permit applicant that an application is complete or is deficient and requires additional information to be processed, the Secretary shall direct the program to make its determination by a specified date and so inform the applicant.

(e) The time period within which the Department must make a decision to issue or deny the permit commences with the date the complete application is received. If the Secretary finds that the Department exceeded the time period for acting on a completed application without the good

cause defined by Government Code section 15376(h), all filing fees paid by the permit applicant will be refunded.

NOTE: Authority cited: Sections 15376 and 15378, Government Code; and Section 12027, Business and Profession Code. Reference: Sections 15376 and 15378, Government Code.

HISTORY

1. Change without regulatory effect pursuant to section 100, Title 1, California Code of Regulations adding section 4701 filed 5-2-90; operative 5-2-90 (Register 90, No. 24).

2. Change without regulatory effect amending section filed 2-28-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 9).

Article 2. Weights and Measures Penalty Guidelines

§ 4800. Notice of Proposed Action and Disposition.

(a) When a county sealer takes administrative action, the person charged with a violation(s) shall be notified of the proposed penalty(s) and the right to request a hearing. The notification shall also include the right to appeal to the Secretary pursuant to the procedures provided in Section 12015.3(c) of the Business and Professions Code.

(b) When the State Sealer takes administrative action, the person charged with the violation(s) shall be notified of the proposed penalty(s), and the right to request a hearing. The notification shall also include the right to have the decision reviewed, within 30 days of the date of the decision, pursuant to Section 1094.5 of the Code of Civil Procedure.

(c) When a respondent in an administrative action agrees to stipulate to the notice of proposed action, a signed stipulation with the payment of the proposed administrative penalty shall be returned to the county/State Sealer within 45 days of the postmark of the notice of proposed action. If the stipulation and payment of the proposed administrative penalty are not received within 45 days, the county/State Sealer may file a certified copy of a final decision that directs the payment of a civil penalty with the clerk of the superior court of any county. Judgement shall be entered immediately by the clerk in conformity with the decision. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgement pursuant to this section.

(d) If an administrative hearing is requested, a final decision and order shall be made by a hearing officer within 60 days of the conclusion of the hearing. This order will be mailed to the respondent. Any penalty imposed shall be due and payable within 45 days of the postmark of such order. If a respondent fails to pay the penalty and fails to timely file a written appeal pursuant to Business and Professions Code Section 12015.3(c), the sealer may take action as provided in Business and Professions Code Section 12015.3(d). Action may be taken to collect the penalty and the collection costs actually incurred.

(e) In the event that a respondent fails to comply with the provisions of Business and Professions Code Section 12015.3, the sealer may take the action proposed without a hearing. This action may include collection of the penalty and the collection costs actually incurred.

NOTE: Authority cited: Section 12015.3(b), Business and Professions Code. Reference: Section 12015.3(b), Business and Professions Code.

HISTORY

1. New article 2 and section filed 4–8–96; operative 5–8–96 (Register 96, No. 15).

§ 4801. Admission.

(a) When a county sealer initiates an action, the sealer shall send a copy of the notice of proposed action to the State Sealer at the time of notice to the person charged with the violation(s). Additionally, the county sealer shall inform the State Sealer of violations for which penalties have been assessed. On at least an annual basis, the State Sealer shall inform county sealers throughout the State of violations for which penalties have been assessed.

(b) When the State initiates the action, the State Sealer shall send a copy of the notice of proposed action to the county sealer involved. This notice shall also be sent, at the time of notice, to the person charged with the violation(s). The State Sealer shall also inform the county sealer in which the action has been initiated of violations for which penalties have been assessed.

NOTE: Authority cited: Sections 12027 and 12028, Business and Profession Code Reference: Sections 12027 and 12028, Business and Professions Code.

HISTORY

1. New section filed 4–8–96; operative 5–8–96 (Register 96, No. 15).

§ 4802. Penalty Guidelines.

In applying Section 12015.3 of the Business and Professions Code, the

sealer shall use the provisions of this section to determine the types of violations for which penalties may be assessed and the amounts of the penalties. Nothing in this article prohibits a sealer from seeking other relief through the criminal or civil court process in lieu of administrative action.

(a) For the purposes of this article, violation types are designated as “Serious,” “Moderate,” and “Minor.”

(1) “Serious” violations are violations in which there is the potential for actual false, deceptive, or misleading business practices, or significant monetary loss to consumers; or repeated violations of subparagraph (2), arising out of two or more visits, that occurred within a two-year period at the same location and which resulted in an action and subsequent penalty. Included in this category are certain violations subject to prior legislated fine levels pursuant to Business and Professions Code Section 12729. The appropriate penalty range for these violations is \$400–\$1,000; however, such penalty shall not exceed the maximum criminal fine specified in the charging section.

(2) “Moderate” violations are violations in which there is a reasonable potential for intermediate level of consumer or competitive harm; or repeated violations of subparagraph (3), arising out of two or more visits, that occurred within a two-year period at the same location and which resulted in an action and subsequent penalty. The appropriate penalty range for these violations is \$150–\$600; however, such penalty shall not exceed the maximum criminal fine specified in the charging section.

(3) “Minor” violations are primarily violations that have minimal effect on the accuracy of the transaction or the level of competition in the marketplace. Included in this category are other violations included in Business and Professions Code, Division 5 that are not included in Table A. The appropriate penalty range for these violations is \$50–\$250; however, such penalty shall not exceed the maximum criminal fine specified in the charging section.

(b) Table A shall be used to establish the level of severity of a particular violation and its corresponding penalty range. Except where specific violation parameters are provided, the violation column in Table A is an abbreviated description of the corresponding section in the California Business and Professions Code, Division 5, Weights and Measures.

1 = Serious (400 to \$1,000) 2 = Moderate (\$150 to \$600) 3 = Minor (\$50 to \$250)

TABLE A

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
<i>12016</i>	Hindering or obstructing sealer.	1		
<i>12021</i>	Marking or stamping false or short weight or measure on containers: Taking false tare (knowingly).	1		
<i>12022.5</i>	Fresh meats or roasts: Advertising/selling on basis of net weight, not including added fat		2	
<i>12023</i>	Selling according to gross weight or measure.		2	
<i>12024</i>	Selling in less quantity than represented: Prepackaged – Labeled but not packed on premises.			
	– Single Lot:			
	Overcharge less than 50¢.			3
	Overcharge 50¢ to \$2.00.		2	
	Overcharge more than \$2.00	1		
	– Total of All Lots:			
	Overcharge less than \$2.00			3
	Overcharge \$2.00 to \$10.00		2	
	Overcharge more than \$10.00	1		
	Short measure bulk wood deliveries.	1		
<i>12024.1</i>	Misrepresenting charge for service rendered (willfully).			
	– Overcharge less than 5%		2	
	—Overcharge 5% or more.	1		
<i>12024.2</i>	Unlawful computation of value.			
	(A) Test Purchase of Commodities by Weight, Measure, or Count, Determined at Time of Sale: (Applies to any number of items purchased or inspected for pricing integrity).			
	– Overcharged on One item: Overcharge equals 15¢ or more and is 5% or more of correct value for that item.		2	
	– Overcharged on Two or More Items: Total Overcharge equals 15¢ or more and is 3% or more of correct total value for those items.	1		

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
12024.2	(B) Scanning/Automated and Other Checkstand Inspections.			
	– Overcharged on fewer than 10% of items purchased or inspected for pricing integrity and total algebraic overcharge is less than 2% of correct total price. ¹			3
	– Overcharged on 10% or more but on fewer than 12% of items purchased or inspected for pricing integrity.		2	
	– Total algebraic overcharge 2% or more but less than 4% of correct total price. ¹		2	
	– Overcharged on 12% or more of items purchased or inspected for pricing integrity.	1		
	– Total algebraic overcharge 4% or more of the correct total price. ¹	1		
12024.3	Selling prepackaged commodities in less quantity than represented (packed and labeled on premises).			
	– Single Lot (unknowingly:			
	Overcharge of \$2.00 or less.			3
	Overcharge more than \$2.00		1	
	– Total of All Lots (unknowingly):			
	Overcharge less than \$2.00.			3
	Overcharge \$2.00 to \$10.00.		2	
	Overcharge more than \$10.00	1		
12024.5	Sale of fowl, meat, or fish other than by weight: ready-to-eat items.		2	
12024.55	Door-to-door salespersons; failure to provide price statement on packages.		2	
12024.6	Prohibition of advertising intended to entice customer into transaction other than represented.	1		

¹Algebraic overcharge is the total of the overcharges in a purchase of multiple items, less the total of the undercharges.

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
12024.7	Failure to provide: A statement of weight and type of cuts of meat sold; itemized statement showing quantity of fruits, vegetables, and other food products delivered in connection with meat sale.		2	
12024.9	Failure to provide a statement of weights supplied to consumer upon direct sale of meat on basis of primal cuts or carcass weight.		2	
12024.10	Failure to retain a document stating weight and cut of meat sold.		2	
12025	Refusal to exhibit commodity being sold at given weight or quantity.	1		
12025.5	Identification of commodity or container ordered "off sale" under §§ 12211 or 12607.	1		
12107	Violation of tolerances and specifications for commercial weighting and measuring apparatus.			3
12107.1	Establishment of commodity standards, weights, measures, and counts: Procedure: Unlawful sales.			3
12500.5	Approval and certification of commercial instruments: Sale or use for commercial purposes of nonapproved instruments.		2	
12507	Repair of "out of order" instruments: Time: Disuse: Effect of refusal or neglect to repair. Disposition of seized instruments.	1		
12508	Removal or obliteration of sealer's tag or device.	1		
12509	Incorrect device into service.		2	
12510	Presumption of intent to violate law:			
	(1) Using an incorrect device.		2	
	(2) Sells commercial device not sealed within last year.			3
	(3) Using a condemned device contrary to law.	1		
	(4) Uses for commercial purposes an unsealed, incorrect device not kept at fixed location.		2	
	(5) Used to falsify.	1		
	(6) Location of retail scale.			3
	(7) False computation of price.		2	
	(8) Return to zero (knowingly)	1		
	(9) Deliver for test.		2	
	(10) Sells, uses, rents, loans incorrect device.		2	

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
<i>12512</i>	Purchase of less than true quantity.	1		
<i>12515</i>	Repair, sale, or installation of instrument: Failure to notify county sealer: When notification not required.		2	
<i>12532</i>	Engaging in business as device repairman or maintaining device repair service without registration.		2	
<i>12536</i>	Enrollment of persons who adjust, repair, or install commercial weighing or measuring devices.			3
<i>12548</i>	Registrant's identification of work on device: Adhesive tag or label.			3
<i>12602</i>	Distributing commodity contained in nonconforming package: Exception for wholesale or retail distributors not engaged in packaging or labeling.		2	
<i>12603</i>	Regulations to be established by Secretary: Required provisions of regulations.			
	– Identity of commodity and/or name and place of business of packer/distributor/manufacture.		2	
	– Net quantity of contents not on container or label.		2	
<i>12605</i>	Prohibition of distribution of packaged commodity containing qualifying words in separate statement of net quantity of contents: Supplemental statements: Prohibited qualifications.		2	
<i>12611</i>	Selling commodity in nonconforming container or with nonconforming label: Required information not prominently displayed.		2	
<i>12703</i>	License, fee and/or penalty required.		2	
<i>12704</i>	License fee		2	
<i>12705</i>	Change in legal entity of licensee.		2	
<i>12707</i>	License renewal; failure to pay fee when due.		2	
<i>12710</i>	Weighmasters responsible for acts of deputy.	1		
<i>12710.5</i>	(b) Failure to notify of replacement/deletion of deputy.			3
<i>12711</i>	When weighmaster certificate to be issued.		2	
<i>12712</i>	Issuance of certificate by one other than weighmaster making determination; transfer of weight or measure to other certificate.			
	(a) Certificates issued based on information from another party.		2	
	(b) Transfer of weight from one certificate to another.		2	

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
12713	(a) Responsibility for completeness of certificate.		2	
	(b) Omitted information on certificate.		2	
12714	Certificate legend/principal licensee name.			3
12714.5	Information on certificate to be legible; consecutive numbering.			3
12715	Contents of certificate.			3
12716	Recordkeeping; inspection.		2	
12716.5	Correction of errors.		2	
12717	Approval, testing, and sealing of weighing or measuring device.		2	
12718	(a) Requests a person to weigh, measure, or count falsely.	1		
	(b) Requests a false or incorrect weighmaster certificate.	1		
	(c) Furnishes or gives false information to a weighmaster.	1		
	(d) Knowingly presents for payment a false weighmaster certificate.	1		
	(e) Knowingly issues a false weighmaster certificate.	1		
	(f) Alters a weighmaster certificate resulting in a false weight, measure, or count.	1		
	(g) Possesses blank weighmaster certificates if not licensed.	1		
	(h) Issues a certificate with alterations or omissions of gross, net, tare weights, net only weights, or measurements.	1		
12719	Change of net contents after recordation of weight.	1		
12720	Alteration of tare weight of vehicle prior to determining net weight of commodity.	1		
12721	Weighing for purposes of certification.	1		
12722	Use of predetermined tare weight; exemption for specified rock products.			
	(a) Violation of tare regulations.	1		
	(b) Rock, sand, and gravel predetermined tares.	1		
12724	Determination of gross and tare weights; requirement that all persons be off scale and vehicle; exceptions.		2	

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
12725	Conditions under which gross weight not to be certified.		2	
12727	Verification of weight, measure, or count.	1		
12728	Requirement that entire vehicle rest on scale; exemption for seed cotton, multiple rail cars containing grain/grain products.		2	
12729(c)	Tomato cab card tare weight. (See B&P Section 12729)	1	2	
12730	Farm products.		2	
12731	Livestock.		2	
12732	Adjustments to load; commodity weights determined at other than site where vehicle was loaded.		2	
12733	Scrap metal and salvage materials.		2	
12734	Squid or anchovy.		2	
13411	Sale of petroleum products contingent upon additional purchase.		2	
13413	Deceptive, false, or misleading statements (Chapter 14) Petroleum Products.	1		
13420 13421 13422	Operators of petroleum dealerships required to make monthly update of advertising medium indicating hours of sale and turn off lights when not open for business.			3
13441	Sale or delivery of nonstandard product.	1		
13442	Sale or delivery of nonstandard product as motor fuel to be labeled "not gasoline".	1		
13451	Sale or delivery of nonstandard diesel, kerosene, or fuel oil	1		
13460 13461	Sale of engine or gear oil which fails to meet specifications.	1		
13470	Display of price sign on dispensing apparatus: Contents of sign.		2	
13470.5	Gallon-to-liter conversion table.		2	
13472	Dual pricing.		2	
13480	Sale, etc., of petroleum products from unlabeled containers, etc: Viscosity rating: Containers with net content of gallon or less.			3
	(d) Sale of unlabeled or mislabeled gasoline containing alcohol.		2	

<i>B&P §</i>	<i>Violation</i>	<i>Type</i>		
13482	Sale of lubricant without SAE/API service classification.			3
13486	Filling of tanks with product other than that identified on container label.	1		
	Labeling:			
13500	(a) No product and/or grade on delivery vehicle.			3
13501	Commingling of products.	1		
13502 13486	Deliveries into storage tanks.	1		
13520	Temperature-corrected gallonage.		2	
	Application of article; display of price per liter or per gallon.			
13530	(a) Advertising a price that is not identical with the dispenser.		2	
	Display requirements; exemption of specified geographic areas; violations.			
13531	(a) Failure to advertise motor fuel prices.		2	
	Motor fuel; contents of display:			
	(a) Advertising price signs.			3
	(b) Violation of discount advertising.			3
13532	(c) Advertising lower price only. (See also § 13413)		2	
	(d) Failure to advertise price in same form.		2	
13534	Additional advertising matter.			3
13562	Change of destination under which product purchased: Authorization.		2	
13568	Written authority; furnishing copies.		2	
13570	Percentage of alcohol to be stated on normal business records: Certification of antiknock index.		2	
13571	Not providing documentation when requested.		2	
13593	Refusal to permit sampling.	1		
	Selling product which does not meet specifications. (See also §§ 13413, 13441, 13451)	1		
13595	Selling from unlabeled or mislabeled containers. (See also §§ 13413, 13480)			3

B&P §	Violation	Type		
13600	Unauthorized breaking, etc., of seal.	1		
13740	Sale or distribution of adulterated or mislabeled product.	1		
13741	Deceptive, false, misleading statement (Chapter 15) Automotive Products.	1		

NOTE: Authority cited: Sections 12015.3(a) and 12028, Business and Professions Code. Reference: Sections 12015.3(a) and 12028, Business and Professions Code.

HISTORY

1. New section and Table A filed 4–8–96; operative 5–8–96 (Register 96, No. 15).
2. Editorial correction of Table A (Register 96, No. 49).

Article 3. Applicant Verification Regulations

§ 4900. Limitations on Licensure of Aliens.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit. This section shall apply to any natural person applying to the Department of Food and Agriculture for issuance or renewal of a license listed in subsection (b) of this regulation.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRAWORA) (Pub. L. No. 104–193), (8 U.S.C.S. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C.S. § 1101 *et seq.*), or aliens paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C.S. § 1182(d)(5)), for less than one year, are not eligible to receive or hold licenses or registrations issued by the California Department of Food and Agriculture (the “Department”), Division of Measurement Standards for “county sealer,” “deputy county sealer,” “inspector,” “device repairman,” “device repair service” or “weighmaster” as set forth in Business and Professions Code Sections 12203, 12532 or 12703, except as provided in 8 U.S.C.S. Section 1621(c)(2). For the purposes of this regulation, the term “license” includes any license, registration or other indicia of authority issued by the Division of Measurement Standards pursuant to the statutes listed in this subsection.

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a license, is, under Section 431(b) & (c) of the PRAWORA (8 U.S.C.S. § 1641(b)), any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C.S. § 1101 *et seq.*).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C.S. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C.S. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C.S. § 1182(d)(5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C.S. § 1253(h)) (as in effect immediately before the effective date of Section 307 of division C of Public Law 104–208) or Section 241(b)(3) of such Act (8 U.S.C.S. § 1251(b)(3)) (as amended by Section 305(a) of division C of Public Law 104–208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C.S. § 1153(a)(7)) (See editorial note under 8 U.S.C.S. § 1101, “Effective Date of 1980 Amendment.”)

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C.S. § 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C) and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse’s or parent’s family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term “battered or subjected to extreme cruelty” includes, but is not limited to being the victim of any act or threatened act of violence including any forcible detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the license to be issued or retained, in the opinion of the Department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the license:

1. The license is needed to enable the alien to become self-sufficient following separation from the abuser.

2. The license is needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The license is needed due to a loss of financial support resulting from the alien’s separation from the abuser.

4. The license is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The license is needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The license is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien’s ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The license is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The license is needed to provide medical care during a pregnancy resulting from the abuser’s sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has a petition that has been approved or has a petition pending which sets forth a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C.S. § 1154(a)(1)(A)(ii), (iii) or (iv)),

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C.S. § 154(a)(1)(B)(ii) or (iii)),

3. suspension of deportation and adjustment of status pursuant to section 244(a)(3) of the INA (8 U.S.C.S. sec. 1254) as in effect prior to April 1, 1997 [Pub.L. 104–208, § 501 (effective Sept. 30, 1996, pursuant to § 591); Pub.L. 104–208, § 304 (effective April 1, 1997, pursuant to § 309); Pub.L. 105–33, § 5581 (effective pursuant to § 5582)] (incorrectly codified as “cancellation of removal under Section 240A of such Act [8 U.S.C.S. § 1229b] (as in effect prior to April 1, 1997).

4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C.S. § 1154(a)(1)(A)(i)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 U.S.C.S. § 1154(a)(1)(B)(i)), or

5. cancellation of removal pursuant to Section 204A(b)(2) of the INA (8 U.S.C.S. § 1229b(b)(2)).

(D) For the term of the license, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term “battered or subjected to extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the license to be issued or retained, in the opinion of the Department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the license:

1. The license is needed to enable the alien's child to become self-sufficient following separation from the abuser.

2. The license is needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The license is needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

4. The license is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The license is needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The license is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The license is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The license is needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (c)(8)(C) above.

(E) For the term of the license, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B) and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term “battered or subjected to extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the license to be issued or retained, in the opinion of the Department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the license:

1. The license is needed to enable the alien child's parent to become self-sufficient following the separation from the abuser.

2. The license is needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The license is needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The license is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The license is needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The license is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The license is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The license is needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c)(8)(C) above.

(d) For purposes of this section, “nonimmigrant” is defined the same as in Section 101(a)(15) of the INA (8 U.S.C.S. § 1101(a)(15)).

(e) For purposes of establishing eligibility for a license identified in (b) issued by the Department, all of the following must be met:

(1) An applicant for a new license or renewal of an existing license must declare himself or herself to be a citizen of the United States or a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 U.S.C.S. § 1182(d)(5)). The alien shall declare that status through use of the “Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits” form, located in Appendix A to this section.

(2) The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable

evidence of the applicant's declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the alien's declared status.

(3) The applicant must complete and sign the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits" form, located in Appendix A.

(4) Where the documents presented do not on their face reasonably appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents shall be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Department shall request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for the license issued by the Department.

(6) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien, a nonimmigrant or alien paroled for less than one year under section 212(d)(5) of the INA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, a nonimmigrant or an alien paroled for less than one year under section 212(d)(5) of the INA, the license shall be denied and the applicant notified pursuant to the regular procedures used by the Department to notify an applicant or licensee of their rights to appeal denial or revocation of a license.

(f) Pursuant to Section 434 of the PRAWORA (8 U.S.C.S. § 1644), where the Department reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall

be reported to the Immigration and Naturalization Service.

(g) Provided that the alien has completed and signed the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits" form, located in Appendix A, under penalty of perjury, eligibility for the license shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

(h) Pursuant to Section 432(d) of the PRAWORA (8 U.S.C.S. § 1642(d)), a nonprofit charitable organization that provides federal, state or local public benefits shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

(i) Nothing in this section shall be construed to withdraw eligibility for licensure under PRAWORA at 8 U.S.C.S. § 1621(b)(2) or (4).

(j) Any applicant who is determined to be ineligible pursuant to subsection (b) and (e) or who was made eligible for licensure whose services are terminated, suspended, or reduced pursuant to subsections (b) and (e), is entitled to a hearing, conducted pursuant to the regular hearing procedures applicable in proceedings for denial or revocation in the particular licensing category.

(k) The Department may accept a photocopy of any document required to be submitted to the Department by this regulation, provided that, in the judgment of the Department, the copied documents reasonably appear to be genuine and relate to the applicant, and are accompanied by a declaration, signed by the applicant under penalty of perjury declaring the copy to be a true and correct copy of the original document.

(l) Where the eligibility of an applicant has previously been verified as part of an eligibility process for any program subject to PRAWORA, if the Department confirms that the prior verification has not expired and remains valid, the prior verification may be deemed adequate for purposes of this regulation.

NOTE: Authority cited: Section 12027, Business and Professions Code. Reference: Sections 12203, 12532 and 127703, Business and Professions Code; and 8 U.S.C.S. §§ 1621, 1641 and 1642.

HISTORY

1. New article 3 (section 4900), section and appendix A filed 5-29-98 as an emergency; operative 5-29-98 (Register 98, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-28-98 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (section 4900), section and appendix A refilled 9-24-98 as an emergency; operative 9-24-98 (Register 98, No. 39). A Certificate of Compliance must be transmitted to OAL by 1-22-99 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 5).
4. New article 3 (section 4900), section and appendix A filed 1-25-99 as an emergency; operative 1-25-99 (Register 99, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-25-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-25-99 order transmitted to OAL 5-25-99 and filed 7-8-99 (Register 99, No. 28).

Appendix A

STATEMENT OF CITIZENSHIP, ALIENAGE, AND IMMIGRATION STATUS FOR STATE PUBLIC BENEFITS – LICENSURE

Print Name of Applicant	Date
Print Name of Person Acting for Applicant, if any	Relationship to Applicant

STATE PUBLIC BENEFITS TO CITIZENS AND ALIENS

Citizens and nationals of the United States who meet all eligibility requirements may be issued a license, registration or certification by the California Department of Food and Agriculture for employment or to conduct a commercial enterprise and must fill out Sections A and D.

Aliens who meet all eligibility requirements may also be issued a license, registration or certification by the California Department of Food and Agriculture for employment or to conduct a commercial enterprise and must complete Sections A, B, C or D of this form.

SECTION A: CITIZENSHIP/IMMIGRATION STATUS DECLARATION

1. Is the applicant a citizen or national of the United States? Yes ☐ No ☐

If the answer to the above question is yes, where was he/she born? _____
(City/State)

2. To establish citizenship or nationality, please submit one of the documents on List A (attached hereto) which is legible and unaltered to establish proof.

IF YOU ARE A CITIZEN OR NATIONAL OF THE UNITED STATES, GO DIRECTLY TO SECTION D. IF YOU ARE AN ALIEN, PLEASE COMPLETE SECTION B, OR, IF APPLICABLE, SECTION C.

SECTION B: ALIEN STATUS DECLARATION

IMPORTANT: Please indicate the applicant's alien status below, and submit documents evidencing such status. The alien status documents listed for each category are the most commonly used documents that the United States Immigration and Naturalization Service (INS) provides to aliens in those categories. You can provide other acceptable evidence of your alien status even if not listed below.

1. An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). (Evidence includes: ☐
 - INS Form I-1551 (Alien Registration Receipt Card, commonly known as a "green card"); or
 - Unexpired Temporary I-561 stamp in foreign passport or on INS Form I-94).
2. An alien who is granted asylum under section 208 of the INA. ☐

(Evidence includes:

 - INS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
 - INS form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)";
 - INS Form I-766 (Employment Authorization Document) annotated "A5";
 - Grant letter from the Asylum Office of INS; or
 - Order of an immigration judge granting asylum.)
3. A refugee admitted to the United States under section 207 of the INA. ☐

(Evidence includes:

- INS Form I-94 annotated with stamp showing admission under section 207 of the INA;
 - INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
 - INS Form I-766 (Employment Authorization Document) annotated “A3”; or
 - INS Form I-571 (Refugee Travel Document).
4. An alien paroled into the United States for at least one year under section 212(d)(5) of the INA. (Evidence includes: □
- INS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)).
5. An alien whose deportation is being withheld under section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208. (Evidence includes: □
- INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
 - INS Form I-766 (Employment Authorization Document) annotated “A10”; or
 - Order from an immigration judge showing deportation withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under section 241(b)(3) of the INA).
6. An alien who is granted conditional entry under section 203(a)(7) of the INA as in effect prior to April 1, 1980. (Evidence includes: □
- INS Form I-94 with stamp showing admission under section 203(a)(7) of the INA;
 - INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
 - INS Form I-766 (Employment Authorization Document) annotated “A3”).
7. An alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980). (Evidence includes: □
- INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6;
 - Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7; or
 - INS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA).
8. An alien paroled into the United States for less than one year under section 212(d)(5) of the INA. (Evidence includes INS Form I-94 showing this status). □
9. An alien not in categories 1 through 8 who has been admitted to the United States for a limited period of time (a non-immigrant). Non-immigrants are persons who have temporary status for a specific purpose. (Evidence includes INA Form I-94 showing this status). □

SECTION C: DECLARATION FOR BATTERED ALIENS

IMPORTANT: Complete this section if the applicant, the applicant’s child or the applicant child’s parent has been battered or subjected to extreme cruelty in the United States.

1. Has the INS or the EOIR granted a petition or application filed by or on behalf of the applicant, the applicant’s child, or the applicant’s child’s parent under the INA or found that a pending petition sets forth a prima facie case? Evidence includes one of the documents on List B (attached hereto). □

2. Has the applicant, the applicant's child, or the applicant child's parent been ☐
battered or subjected to extreme cruelty in the United States by a spouse or parent,
or by a spouse's or parent's family member living in the same house (where the
spouse or parent consented to, or acquiesced in the battery or cruelty)?

SECTION D:

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
ANSWERS I HAVE GIVEN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.**

Applicant's Signature: _____ Date: _____

Signature of Person

Acting for Applicant: _____ Date: _____

LIST A

A person who is a citizen or national of the United States.

A. Primary Evidence

- A birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S.

Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen—see Paragraph C below.

- United States passport (except limited passports, which are issued for periods of less than five years);
- Report of birth abroad of a U.S. citizen (FS-240)(issued by the Department of State to U.S. citizens);
- Certificate of birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State;
- Certificate of Naturalization (N-550 or N-570) (issued by the INS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N-550 has been lost or mutilated or the individual's name has been changed);
- Certificate of Citizenship (N-560 or N-561) (issued by the INS to individuals who derive U.S. citizenship through a parent; the N-561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has been changed);
- United States Citizen Identification Card (I-197) (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- Northern Mariana Identification Card (issued by the INS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
- Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350); or
- American Indian Card with a classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence

If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

- Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;
- Evidence of civil service employment by the U.S. government before June 1, 1976;
- Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);

- Census record showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;
- Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
- Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

C. Collective Naturalization

If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

Puerto Rico:

- Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or
- Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

U.S. Virgin Islands:

- Evidence of birth in the Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927;
- The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or
- Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

- Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);
- Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship

If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

Applicant born abroad to two U.S. citizen parents:

- Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:

- Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Applicant born out of wedlock abroad to a U.S. citizen mother:

- Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

Applicant born in the Canal Zone or the Republic of Panama:

- A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or
- A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

- If the applicant is in the U.S., refer him or her to the local INS office for determination of U.S. citizenship;
- If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.

E. Adoption of Foreign-Born Child by U.S. Citizen

- If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship;
- Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local INS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.

F. U.S. Citizenship By Marriage

A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922.

Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

LIST B

A. Documentation Evidencing an Approved Petition or Application

- INS Form I-551 ("Resident Alien Card" or "Alien Registration Receipt Card", commonly known as a "green card") with one of the following INS class of admission ("COA") codes printed on the front of a white card or the back of a pink card: AR1, AR6, C20 through C29, CF1, CF2, CR1, CR2, CR6, CR7, CX1 through CX3, CX6 through CX8, F20 through F29, FX1 through FX3, FX6 through FX8, IF1, IF2, IR1 through IR4, IR6 through IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21 through P23, or P26 through P28.

If an alien claiming approved status presents a code different than those enumerated, or if you cannot determine the class of admission from the I-551 stamp, file INS Form G-845, and the G-845 Supplement (mark item six on the Supplement) (attached hereto) along with a copy of the document(s) presented, with the local INS office in order to determine whether the applicant gained his or her status because he or she was the spouse, widow, or child of a U.S. citizen or the spouse, child, or unmarried son or daughter of an LPR ("lawful permanent resident").

- INS Form I-551 with one of the following COA codes stamped on the lower left side of the back of a pink card: IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, or BX6 through BX8.
- INS Form I-551 with COA code Z13.
- Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94 with one of the COA codes specified in the Subsections (1)-(3), above.
- INS Form I-797 indicating approval of an INS I-130 petition (only I-130 petitions describing the following relationships may be accepted: husbands or wives of U.S. citizens or LPRs, unmarried children under 21 years old of U.S. citizens or LPRs, or unmarried children 21 or older of LPRs), or approval of an I-360 petition (only I-360 approvals based on status as a widow/widower of a U.S. citizen or as a self-petitioning spouse or child of an abusive U.S. citizen or LPR may be accepted).
- A final order of an Immigration Judge or the Board of Immigration Appeals granting suspension of deportation under section 244(a)(3) of the INA as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA.

B. Documentation Demonstrating that the Applicant has Established a Prima Facie Case

- INS Form I-797 indicating that the applicant has established a prima facie case; or
- An immigration court or Board of Immigration Appeals order indicating that the applicant has established a prima facie case for suspension of deportation under INA section 244(a)(3) as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA.

C. Documentation Indicating that the Applicant has Filed a Petition or that a Petition has been Filed on the Applicant's Behalf, as Applicable, but with no Evidence of Approval of the Petition or Establishment of a Prima Facie Case

The benefit provider shall determine from the documentation when the petition was filed and take the actions set forth below:

- Applicants with petitions filed before June 7, 1997 should have an INS Form I-797 indicating filing of the I-360 petition by "self-petitioning spouse [or child] of abusive U.S.C. or LPR," a file-stamped copy of the petition, or another document demonstrating filing (including a cash register or computer-generated receipt indicating filing of Form I-360).

- Applicants with petitions filed after June 7, 1997 should have an INS Form I-797 indicating filing of the I-360 petition.

D. Documentation Indicating that the Applicant has filed a Petition or that a Petition was filed on His or Her Behalf, as Applicable

The following must indicate that the applicant is the widow/widower of a U.S. citizen, the husband or wife of a U.S. Citizen or LPR, the unmarried child under age 21 of a U.S. citizen or LPR, or the unmarried child age 21 or older of an LPR):

- For aliens on whose behalf a petition has been filed: INS Form I-797 indicating filing of an INS I-130 petition, a file-stamped copy of the petition, or another document demonstrating filing (including a cash register or computer-generated receipt indicating filing of Form I-130) (a sample copy of Form I-130 is attached to this Exhibit).
- For self-petitioning widows or widowers: a file-stamped copy of the INS I-360 petition, or another document demonstrating filing

(including a cash register or computer-generated receipt indicating filing of Form I-360).

E. Documentation Indicating that the INS has Initiated Deportation or Removal Proceedings in which Relief may be Available

- an "Order to Show Cause";
- a "Notice to Appear"; or
- a "Notice of Hearing in Deportation Proceedings."

F. Minimal or no Documentation Regarding the Claimed Filing

If the applicant has some documentation, but it is insufficient to demonstrate filing, establishment of prima facie case or approval of a petition, fax the INS Request Form on your agency letterhead, as well as a copy of any document(s) provided by the applicant, to the INS Vermont Service Center in order to determine the applicant's status. If the applicant has no documentation, but is certain that a petition has been filed by his or her spouse or parent, fax the INS Request Form to the INS Vermont Service Center.

* * *

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Title 4. Business Regulations

Division 10. California Health Facilities Financing Authority

Vol. 5

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Division 10. California Health Facilities Financing Authority

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§ 7034.	Application Form.			Grantees.	
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§ 7036.	Content of Application Form.		§ 7091.	Approval of Grant Use Change.	
§ 7037.	Application Form Evaluation.		§ 7092.	Grant Agreements.	
§ 7038.	Evaluation Criteria.		§ 7093.	Release of Funds.	
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§ 7040.	Appeals.			Projects on Leased Property.	
§ 7041.	Approval of Grant and Notification of		§ 7095.	Completion of Grant Funded Project.	
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Division 10. California Health Facilities Financing Authority

Chapter 1. The Cedillo-Alarcon Community Clinic Investment Act of 2000

§ 7000. Community Clinic Investment Act Definitions.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New Chapter 10 (Sections 7001–7052, not consecutive) filed 3–14–73; effective thirtieth day thereafter (Register 73, No. 11).
2. Repealer and renumbering and amendment of former Chapter 10 (Sections 7001–7318, not consecutive) to Title 22, Division 7, Chapter 10 (Sections 97003–97216, not consecutive) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Registers 85, No. 19; 84, No. 5; 83, No. 16; 82, Nos. 43, 34, 10; 81, Nos. 35, 29, 20; 79, Nos. 36, 26, 5; 78, Nos. 40, 35, 26, 15, 4; 77, Nos. 43 and 26; 76, Nos. 38 and 16; 75, Nos. 36, 27, 24, 20; 74, Nos. 33 and 21; and 73, No. 11.
3. New division 10, chapter 1 (sections 7000–7017) and section filed 4–12–2001 as an emergency; operative 4–12–2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4–8–2002 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new division 10, chapter 1 (sections 7000–7017) and repealer and new section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10–4–2002 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–9–2001 order, including amendment of definitions of “Act” and “Second Funding Round” and amendment of NOTE, transmitted to OAL 7–1–2002 and filed 8–13–2002 (Register 2002, No. 33).
6. Repealer of chapter 1 (sections 7000–7017) and section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11–28–2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
8. Repealer of chapter 1 (sections 7000–7017) and section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7001. Eligible Clinic.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (c), (d), (g) and (j), Government Code.

HISTORY

1. New section filed 4–12–2001 as an emergency; operative 4–12–2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4–8–2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10–4–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–9–2001 order, including new subsection (a)(6) and amendment of NOTE, transmitted to OAL 7–1–2002 and filed 8–13–2002 (Register 2002, No. 33).
4. Repealer filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11–28–2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7002. Eligible Project.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (c), (d) and (j), Government Code.

HISTORY

1. New section filed 4–12–2001 as an emergency; operative 4–12–2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4–8–2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10–4–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–9–2001 order, including amendment of NOTE, transmitted to OAL 7–1–2002 and filed 8–13–2002 (Register 2002, No. 33).
4. Repealer filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11–28–2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7003. Maximum Grant.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d)(6), (e), (f) and (j), Government Code.

HISTORY

1. New section filed 4–12–2001 as an emergency; operative 4–12–2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4–8–2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10–4–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–9–2001 order, including amendment of NOTE, transmitted to OAL 7–1–2002 and filed 8–13–2002 (Register 2002, No. 33).
4. Repealer filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11–28–2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7003.5. Maximum Grant, Second Funding Round.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d)(6), (e), (f) and (j), Government Code.

HISTORY

1. New section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10–4–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–9–2001 order, including amendment of NOTE, transmitted to OAL 7–1–2002 and filed 8–13–2002 (Register 2002, No. 33).
3. Repealer filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 11–28–2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
5. Repealer filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7004. Application Form.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d) and (j), Government Code.

HISTORY

1. New section filed 4–12–2001 as an emergency; operative 4–12–2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4–8–2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10–9–2001 as an emergency; operative 10–9–2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes

§ 7015. Unused Funds.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d), (g) and (j), Government Code.

HISTORY

1. New section filed 4-12-2001 as an emergency; operative 4-12-2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4-8-2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10-9-2001 as an emergency; operative 10-9-2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10-4-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-9-2001 order, including amendment of section and NOTE, transmitted to OAL 7-1-2002 and filed 8-13-2002 (Register 2002, No. 33).
4. Repealer filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11-28-2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7016. Report to Joint Legislative Budget Committee.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d), (i) and (j), Government Code.

HISTORY

1. New section filed 4-12-2001 as an emergency; operative 4-12-2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4-8-2002 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section filed 10-9-2001 as an emergency; operative 10-9-2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10-4-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-9-2001 order, including amendment of NOTE, transmitted to OAL 7-1-2002 and filed 8-13-2002 (Register 2002, No. 33).
4. Repealer filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11-28-2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7017. Audits.

NOTE: Authority cited: Section 2 of Chapter 801 of the Statutes of 2000; and Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d), (d)(3), (h) and (j), Government Code.

HISTORY

1. New section filed 4-12-2001 as an emergency; operative 4-12-2001 (Register 2001, No. 15). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 4-8-2002 or emergency language will be repealed by operation of law on the following day.

2. Repealer and new section filed 10-9-2001 as an emergency; operative 10-9-2001 (Register 2001, No. 41). Pursuant to section 2, Chapter 801, Statutes of 2000 (AB 2276), a Certificate of Compliance must be transmitted to OAL by 10-4-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-9-2001 order, including amendment of NOTE, transmitted to OAL 7-1-2002 and filed 8-13-2002 (Register 2002, No. 33).
4. Repealer filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 11-28-2005 emergency repeal by operation of Government Code section 11346.1(f) (Register 2007, No. 11).
6. Repealer filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

Chapter 2. The Children's Hospital Program

§ 7030. Definitions.

The following words and phrases, as used in this chapter are defined as follows:

(a) "Act" means the Children's Hospital Bond Act of 2004 (Part 6 (commencing with Section 1179.10), Division 1, Health and Safety Code), approved by voters on November 2, 2004.

(b) "Administrative Costs" means actual costs incurred by the Authority and other state agencies as permitted by law for administering the Children's Hospital Program.

(c) "Applicant" means any Children's Hospital applying for program funding from the Children's Hospital Program.

(d) "Application Form" means the written request by an Applicant to the Authority for a Grant under the Children's Hospital Program which includes pages 1-9, Attachments A-C and all materials submitted with Form #CHFFA 5, Rev. 8-2005, for the First Funding Round. If necessary, the Application Form for the Second Funding Round and requisite regulations shall be developed no later than June 1, 2014.

(e) "Audited Financial Statements" means an examination and report of the financial activities of the Children's Hospital or the California non-profit corporation of which the Children's Hospital is an operating entity, for its fiscal year, performed by an independent accounting firm under generally accepted accounting principles.

In the case of the University of California Children's Hospitals, "Audited Financial Statements" means an examination and report of the financial activities of each individual University of California medical center that includes a University of California Children's Hospital, for its fiscal year, performed by an independent accounting firm under generally accepted accounting principles.

(f) "Authority" means the California Health Facilities Financing Authority.

(g) "Children's Hospital" means either:

- (1) A University of California general acute care hospital described as any one of the following:

[The next page is 262.7]

(A) University of California, Davis Children's Hospital.

(B) Mattel Children's Hospital at University of California, Los Angeles.

(C) University Children's Hospital at University of California, Irvine.

(D) University of California, San Francisco Children's Hospital.

(E) University of California, San Diego Children's Hospital.

(2) A general acute care hospital that is, or is an operating entity of, a California nonprofit corporation incorporated prior to January 1, 2003, whose mission of clinical care, teaching, research, and advocacy focuses on children, and that provides comprehensive Pediatric Services to a high volume of children eligible for Government Health Insurance Programs and to children with special health care needs eligible for the California Children's Services program and:

(A) Provided at least 160 licensed beds in the categories of pediatric acute, pediatric intensive care and neonatal intensive care in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to the Office of Statewide Health Planning and Development (OSHPD) on or before July 1, 2003.

(B) Provided over 30,000 total pediatric patient (census) days, excluding nursery acute days, in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to OSHPD on or before July 1, 2003.

(C) Provided medical education of at least eight (rounded to the nearest integer) full-time equivalent pediatric or pediatric subspecialty residents in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to OSHPD on or before July 1, 2003.

(h) "Children's Hospital Program" means the program resulting from the Act.

(i) "Costs of Issuance" mean the expenses incurred in connection with the sale and issuance of bonds, other short-term debt instruments, or loans approved by the Pooled Money Investment Board that are used to finance or refinance Grants, and accrued interest on any short-term debt instruments or loans which are not paid from another source.

(j) "Executive Director" means the Executive Director of the Authority.

(k) "Expansion of Health Care Access" means providing same services to additional patients or net additional or new Pediatric Services to existing or new patients.

(l) "Final Allocation" means a Grant allocation approved by the Authority.

(m) "First Funding Round" means the period of time prior to June 30, 2014.

(n) "Going Concern Qualification" means a finding by an independent accounting firm that the carrying value of an entity's assets will be realized and its liabilities will be liquidated in the ordinary course of continuing business activity.

(o) "Government Health Insurance Programs" mean governmental assistance programs that include, but are not limited to, Medicaid (Medi-Cal), State Children's Health Insurance Program (Healthy Families), California Children's Services (CCS), Child Health and Disability Prevention Program (CHDP) and county indigent programs.

(p) "Grant" means the distribution of money in the Children's Hospital Fund, as defined in Section 1179.20 of the Health and Safety Code, by the Authority to a Children's Hospital for a Project pursuant to the Children's Hospital Program.

(q) "Grant Agreement" means a written agreement for a Grant entered into between a Grantee and the Authority.

(r) "Grantee" means an Applicant that has received Grant approval by the Authority.

(s) "Improvement of Child Health Care" means an improvement in the timeliness, effectiveness, or quality of care provided to the pediatric population.

(t) "Improvement of Health Care Access" means an increase in the quantity and scope of Pediatric Services provided.

(u) "Improvement of Pediatric Patient Outcomes" means an improvement in the overall health of the pediatric patients receiving treatment or care.

(v) "Initial Allocation" means an Authority staff-level decision granting an allocation.

(w) "Maximum Grant for the First Funding Round" means:

(1) A limit of \$30 million less Costs of Issuance and Administrative Costs on the total amount of Grants that may be made to any one Children's Hospital that is described in paragraph (1) of subdivision (g).

(2) A limit of \$74 million less Costs of Issuance on the total amount of Grants that may be made to any one Children's Hospital that is described in paragraph (2) of subdivision (g).

(x) "Most Recent Audited Financial Statements" means the Audited Financial Statements for the most recent fiscal year for which such financial statements are available.

(y) "Non University of California Children's Hospital" means a Children's Hospital described in paragraph (2) of subdivision (g).

(z) "Pediatric Research Programs" means scientific research focused on the pediatric population to improve and/or better understand this population's health.

(aa) "OSHPD" means the Office of Statewide Health Planning and Development.

(bb) "Pediatric Services" means services provided for children from birth to age 18. Exceptions to the age limit are allowed up to age 21 for children receiving treatment for a California Children's Services eligible condition as described in Sections 41811 through 41876, Title 2, of the California Code of Regulations.

(cc) "Pediatric Teaching Program" means a program that annually provides medical education for at least eight (rounded to the nearest integer) full-time equivalent pediatric or pediatric subspecialty residents.

(dd) "Pooled Money Investment Board" means the Board established pursuant to Section 16480.1 of the Government Code.

(ee) "Project" means constructing, expanding, remodeling, renovating, furnishing, equipping, financing, or refinancing capital assets, as defined in Section 16727(a) of the Government Code, of a Children's Hospital. Pursuant to the Act, this may include reimbursement for the costs of constructing, expanding, remodeling, renovating, furnishing, equipping, financing or refinancing where these costs are incurred after January 31, 2003. "Project" does not include Costs of Issuance for any financing or refinancing of a Project.

(ff) "Project Period" means a defined beginning and end date approved by the Authority for implementation of the Project.

(gg) "Second Funding Round" means the period of time after June 30, 2014, when Grants may be awarded from unexhausted funds made available pursuant to the Program.

(hh) "Total Grant Funds" means \$750 million less Administrative Costs and Costs of Issuance.

(ii) "Uncompensated Indigent Care" means care provided without a patient-specific source funding available to pay for the Pediatric Services rendered.

(jj) "Undercompensated Care" means care provided where a financial shortfall exists between gross expenses and the revenues (or payment) in treating a pediatric patient.

(kk) "University of California Children's Hospital" means a Children's Hospital described in paragraph (1) of subdivision (g).

(ll) "Vulnerable Pediatric Populations" means pediatric patients served by Government Health Insurance Programs and pediatric patients with special health care needs irrespective of insurance status.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.10, 1179.11, 1179.21, 1179.22, 1179.23, 1179.24, 1179.30, 1179.38 and 1179.39, Health and Safety Code.

HISTORY

1. New chapter 2 (sections 7030–7050) and section filed 2–11–2005 as an emergency; operative 2–11–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–13–2005 or emergency language will be repealed by operation of law on the following day.

2. New chapter 2 (sections 7030–7050) and section refiled 5–26–2005 as an emergency; operative 5–26–2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–23–2005 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 5–26–2005 order, including amendment of subsection (d), new subsection (aa), subsection relettering and amendment of newly designated subsections (bb) and (ee)–(ff), transmitted to OAL 9–14–2005 and filed 10–27–2005 (Register 2005, No. 43).

§ 7031. Eligible Children's Hospital.

(a) Any Children's Hospital shall be eligible to apply for one or more Grants if the following conditions are met:

(1) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity has a current, valid general acute care hospital license from the Department of Health Services.

(2) The most Recent Audited Financial Statements of the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity do not contain any Going Concern Qualifications.

(3) The Children's Hospital has submitted to the Authority a completed Application Form.

(4) The Authority, at its discretion, confirms with OSHPD that the non–University of California Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity has submitted to OSHPD its Annual Disclosure Report for the fiscal year ending between June 30, 2001 and June 29, 2002, on or before July 1, 2003.

(5) If the Children's Hospital proposes to use Grant funds for a Project other than equipment acquisition on certain property, the Children's Hospital shall provide evidence that either:

(A) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity owns the property.

(B) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is a lessee under a lease agreement that satisfies Section 7047.

(6) If the Children's Hospital proposes to use Grant funds for a Project that includes architect, design, and/or engineering fees, the Children's Hospital shall provide the Authority with reasonable assurance, at the Authority's discretion, that any of these fees are components of a larger Project that will ultimately benefit the health and welfare of California's sick and/or injured children. The Authority shall rely on timelines associated with the entire Project to assess whether or not the Project will benefit pediatric patients.

(7) If the Children's Hospital proposes to use Grant funds for the acquisition of real property, the Children's Hospital shall provide a valid, current, enforceable contingent purchase and sale agreement or option agreement between the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity and the owner of the subject property, including evidence that all extensions necessary to keep the agreement current through the Final Allocation have been executed, if applicable. In addition, the Children's Hospital shall provide the Authority with reasonable assurance that the acquisition is a component of a larger Project that will ultimately benefit the health and welfare of California's sick and/or injured children, such as the construction of a new facility to benefit pediatric patients.

(b) If an Applicant does not meet the conditions described in (a), the Applicant shall be deemed ineligible, but may reapply at a time when the Applicant is able to meet the conditions.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.11, 1179.22 and 1179.24, Health and Safety Code

HISTORY

1. New section filed 2–11–2005 as an emergency; operative 2–11–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–13–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–26–2005 as an emergency; operative 5–26–2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–23–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–26–2005 order, including amendment of section, transmitted to OAL 9–14–2005 and filed 10–27–2005 (Register 2005, No. 43).

§ 7032. Maximum Grant, First Funding Round.

No Grant or combination of Grants to any Children's Hospital may exceed the Maximum Grant for the First Funding Round.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.23 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2–11–2005 as an emergency; operative 2–11–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–13–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–26–2005 as an emergency; operative 5–26–2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–23–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–26–2005 order transmitted to OAL 9–14–2005 and filed 10–27–2005 (Register 2005, No. 43).

§ 7033. Maximum Grant, Second Funding Round.

If funds are available pursuant to Section 7042, the process for determining Maximum Grants for the Second Funding Round shall be adopted no later than June 1, 2014.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.23 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2–11–2005 as an emergency; operative 2–11–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–13–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–26–2005 as an emergency; operative 5–26–2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–23–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–26–2005 order, including amendment of section, transmitted to OAL 9–14–2005 and filed 10–27–2005 (Register 2005, No. 43).

§ 7034. Application Form.

A blank Application Form shall be available from the Authority and the Authority's website and may be referred to as the Children's Hospital Grant Application Form #CHFFA 5, Rev. 8–2005, which is hereby incorporated by reference. The Applicant shall submit a completed Application Form in the manner set forth in Sections 7035 and 7036. The Children's Hospital Overview and Instructions for Grant Application, Form #CHFFA 5A, Rev. 8–2005 is hereby incorporated by reference.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2–11–2005 as an emergency; operative 2–11–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–13–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–26–2005 as an emergency; operative 5–26–2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–23–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–26–2005 order, including amendment of section, transmitted to OAL 9–14–2005 and filed 10–27–2005 (Register 2005, No. 43).

§ 7035. Application Form Submission.

Application Forms shall be submitted in duplicate to the Authority. The Authority shall accept Application Forms for the First Funding Round on an on–going basis until the funding for the Children's Hospital Program is exhausted. Applications are due the first business day of each month and will be presented to the Authority the following month. Applications received on the first business day of November will be presented to the Authority at the regularly scheduled January meeting pursuant to Section 7041. Each Applicant may apply for more than one Grant for different Projects until its Maximum Grant for the First Funding Round is reached. If necessary, applications for the Second Funding Round shall be available no later than June 1, 2014.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7036. Content of Application Form.

The following items shall accompany the Application Form:

(a) Financial Information. The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity shall submit its Most Recent Audited Financial Statements.

(b) Organization Information.

(1) If the Applicant is a non-University of California Children's Hospital, the Applicant shall submit both of the following:

(A) A copy of the Applicant's 501(c)(3) determination letter from the Internal Revenue Service and a copy of either the tax-exemption letter or Letter of Good Standing from the Franchise Tax Board. For Children's Hospitals that are operating entities of a California nonprofit corporation, the Internal Revenue Service and Franchise Tax Board Letters are required for the parent corporation.

(B) A copy of the Applicant's Articles of Incorporation and Bylaws. For Children's Hospitals that are operating entities of a California nonprofit corporation, the Articles of Incorporation and Bylaws are required for the parent corporation.

(2) For all Applicants, a copy of its current general acute care hospital license from the Department of Health Services or a copy of the general acute care hospital license of the California nonprofit corporation of which the Children's Hospital is an operating entity.

(c) Legal Information. Applicant shall complete a legal status questionnaire.

(d) Agreement and Certification. Within the Application Form and as memorialized in a separate Grant Agreement, the Chief Executive Officer, Chief Financial Officer or other authorized officer of the Applicant, on behalf of the Applicant, shall agree and certify to the following terms and conditions as a requirement of receiving any Grant:

(1) The information contained in the Application Form and attachments is true and correct to the best of its knowledge and belief and understands that any misrepresentation may result in the cancellation of a Grant and other actions permitted by law and the Grant Agreement.

(2) Applicant may be required to return all or a portion of the Grant including any unused investment earnings if the Applicant fails to complete the Project as approved. In cases where the Grant will fund architect, design, or engineering fees or land acquisition costs as part of an approved Project, the Applicant may be required to return all Grant funds and any unused investment earnings if the Authority cannot determine that the associated larger Project has been completed, based on timelines provided within the Application Form.

(3) Grant funds will only be used for the Project described in the Application Form unless a change in the Project is approved in writing by the Authority pursuant to Section 7043.

(4) The Project and financial records of the Applicant's Project are subject to audit and inspection by the Authority and the Bureau of State Audits.

(5) Applicant has disclosed all information requested by the legal status questionnaire.

(6) Applicant will notify the Authority in writing at the time of Project completion with evidence of completion included.

(7) Applicant will provide all documents and information required by law and meet all necessary requirements prior to the release of the Grant.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24, 1179.25 and 1179.32, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7037. Application Form Evaluation.

(a) Application Forms shall be reviewed and evaluated within 60 days from receipt by Authority staff according to the evaluation criteria described in Section 7038.

(b) A positive response or combination of positive responses to the legal status questionnaire may result in the applicant becoming ineligible for a Grant.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. References: Sections 1179.22 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including repealer of subsections (b)-(b)(4) and new subsection (b), transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7038. Evaluation Criteria.

Authority staff shall evaluate each Application Form based on the following criteria.

(a) How well the Project contributes to both of the following:

(1) Expansion or Improvement of Health Care Access by children eligible for Governmental Health Insurance Programs and indigent, underserved, and uninsured children.

(2) Improvement of Child Health Care or Improvement of Pediatric Patient Outcomes.

(b) How well the Applicant does any or all of the following:

(1) Provides Uncompensated Indigent Care or Undercompensated Care to eligible pediatric patients.

(2) Provides services to Vulnerable Pediatric Populations.

(3) Promotes Pediatric Teaching Programs or Pediatric Research Programs.

(c) How well the Applicant demonstrates Project readiness and feasibility based upon the following:

(1) A project timeline that includes the following:

(A) An expected start date (e.g. construction start date(s) and/or equipment purchase date(s)).

(B) An expected completion date (e.g. construction completion date(s), acquisition completion dates, and/or equipment installation date(s)).

(C) Problems anticipated in implementing the Project and how problems will be managed to ensure timely completion.

(2) Whether the Project is feasible after a review of all of the following:

(A) For all Projects with the exception of equipment acquisition projects, the Applicant shall submit estimates of Project costs and evidence of property ownership or, if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047. The Applicant shall also provide building permits and/or executed construction contracts, if available. An Applicant with a Project that does not yet have an executed construction contract or building permit but is actively in the process of obtaining one, shall provide a detailed statement that explains the status of obtaining the document.

(B) For all Projects involving architect, design and engineering fees to be paid with Grant funds, the Applicant shall submit estimates of Project costs and a draft of all applicable architect, design and engineering contracts. In addition, if the Grant will be used to pay for architect, design and engineering fees as part of an approved Project, the Applicant shall provide a timeline that specifies when the entire Project will be complete.

(C) For Projects that include the acquisition of real property, the Applicant shall submit a copy of an executed purchase and sale agreement or status of obtaining one or other evidence of site control to the satisfaction of the Authority. In addition, if the Grant will be used to pay for real property acquisition costs as part of an approved Project, the Applicant shall provide a timeline that specifies when the entire Project will be complete.

(D) For equipment acquisition projects, the Applicant shall submit a specific list of items and cost estimates of equipment or copies of invoices, and if applicable, cost estimates of installation of such equipment.

(E) If funding sources other than the Grant are required to complete the Project, the Applicant shall provide approval or commitment letters from the other funding sources, confirming that the funding is secured and available in accordance with the Project timeline and budget.

(3) Whether implementation of the Project is feasible:

(A) The Applicant shall submit plans for Project implementation that includes credible staffing, operations and reimbursement figures. If the Project will result in an expansion of services, the Applicant shall provide an organization chart identifying key personnel for the expanded services.

(B) The Applicant shall submit a third-party prepared feasibility study, funding letters or other documentation to demonstrate that the Project will generate sufficient revenues to provide on-going support for new or expanded services and/or research programs. If revenues generated by the Project will be insufficient, the Applicant's revenues shall be sufficient, as determined by Authority staff, to provide on-going support.

(C) When applicable, the Applicant shall submit evidence that it is in compliance with the California Environmental Quality Act and all other applicable laws.

(d) The sources and uses of funds:

(1) The Applicant shall detail all sources of funds required to complete the proposed Project. Sources may include, but are not limited to, the total Grant request, borrowed funds, internal assets, and other sources. If the Project, or a portion of the Project, has been or will be submitted to other lenders or grantors for funding, the Applicant shall list them and the status of their consideration.

(2) The Applicant shall detail the uses of all funds required to complete the proposed Project. The total uses shall not exceed the total of all available fund sources. In some instances, funds from sources other than the Grant may be used for portions of a proposed Project that would otherwise be ineligible for this Grant. In those instances, the Applicant shall describe specifically how the Grant funds, as well as other grants, loans, or internal funds, will be used to ensure Grant funds will not subsidize Project elements not eligible for such funds. Where a Project includes elements required to serve non-pediatric populations, the Grant funds shall be limited only to the proportionate cost of providing care to the pediatric population. The Authority shall determine the appropriate manner in which the proportionate share use will be evaluated.

If a proposed Project will benefit both pediatric and non-pediatric patients, the total Grant for that Project cannot exceed the proportionate share use of the pediatric population. For such Projects, the Authority staff shall determine the amount of Grant funds to be awarded based on proportionate use and any other factors related to improvement of pediatric population care.

(e) The financial capacity of the Applicant based upon a review of the Most Recent Audited Financial Statements supplied pursuant to paragraph (2) of subdivision (a) of Section 7031 to ensure that the status of the Applicant is financially sound as of the date of such audit.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. References: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7039. Notification and Initial Allocation.

The Authority shall notify each Applicant in writing, stating the amount of each Initial Allocation.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.23 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7040. Appeals.

(a) Availability. An Applicant may file an appeal of any Initial Allocation. The grounds for any such appeal shall be limited to Applicant eligibility pursuant to Section 7031 and Section 7037 and whether the proposed expense is for a Project as defined in (ee) of Section 7030. No Applicant may appeal the Authority staff evaluation of, or Initial Allocation to, another Applicant.

(b) Timing. The appeal shall be submitted in writing and shall be received by the Authority not later than ten (10) calendar days following the transmittal date of the notification of Initial Allocation.

(c) Review. The Authority staff shall review the written appeal based upon the existing documentation submitted by the Applicant when the Application Form was filed and any other information the Authority staff requests of the Applicant. The Authority staff shall make a finding as to the merit of the appeal and shall notify the Applicant as to the decision no later than ten (10) calendar days after the receipt of an appeal. In the event that the Authority staff does not approve an appeal, the Applicant may further appeal to the Authority. The Applicant shall notify the Executive Director in writing no later than ten (10) calendar days prior to the next regularly scheduled Authority meeting that the Applicant intends to further appeal to the Authority. Any such appeal shall be presented by the Applicant, in person, at the next regularly scheduled Authority meeting.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22 and 1179.24, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7041. Approval of Grant and Notification of Grantee.

When an Initial Allocation for funding has been determined, Authority staff shall recommend to the Authority at its regularly scheduled meeting, that the Initial Allocation for consideration be approved as a Final Allocation. Any Final Allocation approved by the Authority at the same meeting shall be awarded as Grants to Grantees. Grantees shall be notified within five (5) business days of the same meeting in writing of the Grant approval.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7042. Any Remaining Funds.

If there are any remaining funds after the First Funding Round, the Authority may, in its sole discretion, award Grants of those remaining funds to Applicants in the Second Funding Round in a manner that is consistent with the purpose and requirements of the Children's Hospital Program.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7043. Approval of Grant Use Change.

The Authority or the Authority staff may, on a case-by-case basis, consider a change in the use of the Grant if the Grantee demonstrates, to the Authority or the Authority staff's satisfaction, that the change is consistent with the Act and this chapter.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7044. Grant Agreements.

The terms and conditions of a Grant shall be set forth in a Grant Agreement, which shall include, but not be limited to, all of the following terms and conditions:

- (a) A Grant amount not greater than \$30 million (less Administrative Costs and Costs of Issuance) for University of California Children's Hospitals or \$74 million (less Costs of Issuance) for all Non-University of California Children's Hospitals.
- (b) A Project Period.
- (c) Disbursement procedures pursuant to Section 7045 or Section 7046, as applicable.

(d) A provision that any unused Grant funds and any unused investment earnings on such Grant funds shall revert to the Authority.

(e) Agreement to comply with the Children's Hospital Program and these regulations.

(f) Agreement that the Grantee will defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant, the Project or the Act.

(g) Agreement to comply with state and federal laws outlawing discrimination, including, but not limited to, those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave.

(h) Agreement that continued compliance with Children's Hospital Program requirements is the Grantee's responsibility.

(i) Agreement that the Grant shall only be used for Projects as described in Grantee's Application Form and approved by the Authority.

(j) Any audit provisions.

(k) Any provision necessary to ensure that interest on the bonds is tax-exempt.

(l) Agreement that the Grantee will not dispose of any component of the Project before the end of the useful life of that component of the Project.

(m) Any provisions relating to lease agreements pursuant to Section 7047.

(n) Any other provisions required by the Authority.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. References: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7045. Release of Funds for Non-University of California Children's Hospitals.

(a) No Grant shall be released to a Non-University of California Children's Hospital until the following information has been provided to the satisfaction of Authority staff:

(1) For all Projects with the exception of equipment acquisition projects, any supporting documentation that was incomplete with the Application Form shall be finalized and submitted along with a copy of the executed construction contract and the building permit.

(2) For Projects that include architect, design and engineering fees to be paid with Grant proceeds, all applicable executed architect, design and engineering contracts.

(3) For real property acquisition Projects, a copy of the executed purchase and sale agreement and a copy of an appraisal, the appraised value of which (when added to the amount of reasonable transaction and closing costs) shall not be less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be no older than six months and shall be completed by a state certified appraiser.

(4) For equipment acquisition Projects, any supporting documentation that was incomplete when the Application Form was submitted or not provided at that time shall be finalized and submitted along with a list of items to be purchased and all purchase orders.

(5) Evidence that all other funds, if needed, are in place to complete the Project.

(6) Evidence of property ownership for all construction Projects or if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047.

(7) An executed Grant Agreement.

(8) When applicable, evidence that there are no outstanding issues related to the California Environmental Quality Act and any other applicable law, if this information was not provided with the Application Form.

(b) Documentation provided for the release of Grant funds shall clearly show that the Grant award does not exceed the cost of the Project.

(c) Grant funds shall be released on a periodic basis, upon receipt of draw requests, which shall include credit for investment earnings on any previously released portion of Grant.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.11, 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section and NOTE, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7046. Release of Funds for University of California Children's Hospitals.

(a) No Grant shall be released to a University of California Children's Hospital until the following has been provided to the satisfaction of Authority staff:

(1) For all Projects (including Projects with architect, design and engineering fees) with the exception of equipment acquisition projects, all Project documentation of expenditures, including copies of cancelled checks that represent payment to contractors. The Grantee shall provide evidence of property ownership for all Projects or if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047, if this documentation was not submitted with the Application Form.

If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(2) For real property acquisition Projects, a copy of the final closing statement with certification by the title company and a copy of an appraisal, the appraised value of which (when added to the amount of reasonable transaction and closing costs) shall not be less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be completed by a state certified appraiser.

(3) For equipment acquisition Projects, complete packages of contracts organized by vendor to include purchase orders, invoices and copies of cancelled checks. Separate checks shall be issued for Project expenditures and may not include payment for non-Project costs as part of an overall payment to a vendor for Project and non-Project costs.

If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(4) When applicable, evidence that there are no outstanding issues relating to the California Environmental Quality Act and any other applicable law, if this information was not provided with Application Form.

(5) An executed Grant Agreement.

(b) Documentation provided for the release of Grant funds shall clearly show that the Grant award did not exceed the cost of the Project.

(c) Grant funds shall be released on a periodic basis, upon receipt of draw requests, based on a listing of expenditures made on the Project and not previously reimbursed.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.11, 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including amendment of section and NOTE, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7047. Requirements for Construction Projects on Leased Property.

(a) If a Children's Hospital proposes to use Grant funds for a Project other than equipment acquisition on property where the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is a lessee under a lease agreement, the following requirements shall be satisfied prior to any release of Grant funds pursuant to Sections 7045 or 7046:

(1) The lease agreement shall provide the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, as lessee, full access to the site to carry on its healthcare purposes.

(2) The term of the lease agreement must meet one of the following:

(A) The term of the lease agreement shall be at least as long as the useful life of the Project under the Grant.

(B) If the landlord under the lease agreement is an Affiliate, the Term of the lease agreement must be at least 74% of useful life of the Project under the Grant.

(3) A current title report on the site, brought up to date as of the effective date of the lease agreement shall be provided to the Authority. The title report shall show all of the following:

(A) No delinquent taxes or assessments or, if there are delinquent taxes or assessments, these are being contested in good faith and the Children's Hospital has set aside on its books adequate reserves to pay these taxes or assessments.

(B) No easements, exceptions or restrictions on the use of the site that will interfere with or impair the operation of the Project.

(C) No superior liens (deeds of trust or other rights) in the property. If there are any superior liens, they shall be subordinated to the lease agreement. The lease agreement shall provide that any subsequent encumbrance on the property (e.g. deed of trust) or sale of the property shall be subject to the lease agreement.

(4) Any one of the following shall be satisfied:

(A) The lease agreement shall provide for a nominal rent (e.g. \$1 per year).

(B) Full rent under the lease agreement shall be paid in a lump sum up front.

(C) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity shall covenant in the Grant Agreement to budget for payment of rent each year.

(5) The lease agreement shall provide that the only remedy for any default, including failure to pay rent, by lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is suit for rent or specific performance to remedy any specific breach. The landlord's remedies for any default by lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity may not include cancellation of lease agreement, retaking of property or eviction of the lessee.

(6) The lease agreement shall provide for either one of the following:

(A) The lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is obligated to pay all taxes and assessments on the property.

(B) The landlord will provide the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity with notice of any failure to pay taxes or assessments on the property and an opportunity for the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity to cure the failure.

(7) The landlord shall demonstrate that the lease agreement is legally authorized and has been properly approved and executed and enforceable against the landlord. The landlord shall provide a legal opinion of qualified counsel to this effect that is acceptable to the Authority.

(8) The lessee Children's Hospital shall demonstrate that the lease agreement is legally authorized and has been properly approved and executed and enforceable against the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity. Lessee Children's Hospital shall provide a legal opinion of qualified counsel to this effect that is acceptable to the Authority.

(9)(A) Except as provided in (B), the Children's Hospital shall provide a legal opinion that either: 1. the landlord is a special purpose entity which cannot enter bankruptcy proceedings under the federal Bankruptcy Code, or 2. the lease agreement will not be an executory contract and cannot be rejected by the landlord in the event of bankruptcy. The legal opinion shall be acceptable to the Authority.

(B) For so long as the landlord is an Affiliate of lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, the requirements of (A) do not apply.

(10) The Grant Agreement shall provide that if the lease agreement terminates prior to the end of the useful life of the Project under the Grant and the property that was subject to the lease agreement is not simultaneously re-leased under a new lease agreement that complies with the requirements of this Section 7047 or fee title to the property that was subject to the lease agreement is not simultaneously transferred to the Children's Hospital, the Authority is entitled to recover the Grant funds pursuant to Section 7049.

(11) When a Project on leased property includes improvements to any common areas that are shared with other tenants or areas that are not leased by the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity under the lease agreement, the Grant funds shall be limited only to the proportionate costs of the Project which exclude the costs related to such areas.

(12) Prior to approval of the Grant by the Authority, the Applicant shall submit the proposed lease agreement for review and demonstrate compliance with all of the above conditions and any other conditions required by the Authority.

(b) For purposes of this section, "Affiliate" means an entity which, directly or indirectly through one or more intermediaries, is controlled by or is under common control with the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including renumbering of former section 7047 to section 7048 and new section 7047, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7048. Completion of Grant Funded Project.

(a) The Grantee shall certify to the Authority that the Project is complete and, to the extent not already provided to the Authority, provide

supporting documentation to the satisfaction of the Authority staff as follows:

(1) Construction projects (including Projects with architect, design and engineering fees) require documentation including, but not limited to, copies of the certificate of occupancy, final payment certification by the architect, final payment request from the contractor and corresponding copies of cancelled checks. If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(2) Real property acquisition Projects require a copy of the final closing statement with certification by the title company.

(3) Equipment acquisition projects require complete packages of contracts organized by vendor to include, purchase orders, invoices and copies of cancelled checks. Separate checks shall be issued for Project expenditures and may not include payment for non-Project costs as part of an overall payment to a vendor for Project and non-Project costs.

If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(b) If the Grantee fails to complete the Project within the Project Period, the Authority may require remedies, including forfeiture and return of the Grant to the Authority.

(c) On a case-by-case basis, the Authority or the Authority staff may extend the Project Period for extraordinary or unavoidable delays where the Grantee can demonstrate that it occurred through no fault of its own.

(d) Documentation provided to establish the completion of a Project shall clearly show that the Grant award did not exceed the cost of the Project.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including renumbering of former section 7048 to section 7049 and renumbering and amendment of former section 7047 to section 7048, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7049. Recovery of Funds for Non-Performance and Unused Funds.

(a) If the Authority determines that the use of the Grant funds did not comply with Children's Hospital Program requirements and the terms of the Grant Agreement for an approved Project, the Authority may require remedies, including a return of all Grant funds.

In cases where Grant funds paid for a component of a Project that does not specifically benefit pediatric patients, such as architect, design or engineering fees or land acquisition costs, and if the Authority determines that the Grantee did not complete a larger Project as described in the timelines provided with the Application, the Authority may require remedies, including a return of all Grant funds.

If the Project, or any part thereof, funded with Grant funds ceases to be used by the Children's Hospital before the end of the useful life of the Project, the Authority is entitled to recover Grant funds in an amount that bears the same ratio to the value of the Project, or the appropriate part thereof, at the time it ceased to be used by the Children's Hospital as the amount of the Grant bore to the cost of the Project or the appropriate part thereof. For purposes of this paragraph, the value of the Project, or the appropriate part thereof, is determined by mutual agreement of the Authority and the Grant recipient or through an action brought for that purpose in the superior court.

(b) If any portion of the Grant is forfeited to the Authority, the forfeited funds shall be deemed remaining funds for purposes of Section 7042.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order, including repealer of former section 7049 and renumbering of former section 7048 to section 7049 with amendment of section heading, section and NOTE, transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

§ 7050. Audits.

The Bureau of State Audits and Authority staff may conduct periodic audits to ensure Grantees are using Grants consistent with the Children's Hospital Program requirements and the terms of the Grant Agreement for an approved Project. Grantees shall retain all Children's Hospital Program documentation and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the certification of completion of the Project has been submitted or until June 30, 2017, whichever is later.

NOTE: Authority cited: Sections 1179.22, 1179.24 and 1179.32, Health and Safety Code. Reference: Section 1179.25, Health and Safety Code.

HISTORY

1. New section filed 2-11-2005 as an emergency; operative 2-11-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-13-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-26-2005 as an emergency; operative 5-26-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-23-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-26-2005 order transmitted to OAL 9-14-2005 and filed 10-27-2005 (Register 2005, No. 43).

Chapter 3. The Community Clinic Grant Program of 2005

§ 7075. Definitions.

The following words and phrases, as used in this Chapter are defined as follows:

(a) "Act" — means the Cedillo-Alarcón Community Clinic Investment Act of 2000, as set forth in Section 15438.6 of the Government Code, as amended by Stats. 2005, ch. 493.

(b) "Applicant" — means a Clinic applying for Grant funds under the Community Clinic Grant Program of 2005.

(c) "Application Form" — means the written request by an Applicant to the Authority for a Grant under the Community Clinic Grant Program of 2005, which includes pages 1-15, Attachments A-D and all materials submitted with Form # CHFFA 6 Rev. 10-2005. If necessary, the Application Form for the Second (2nd) Funding Round shall be developed at a future date.

(d) "Audited Financial Statements" — means an examination and report of the financial activities of an eligible Applicant for fiscal year 2004 (or a more recent audit for the Second (2nd) Funding Round, if necessary), performed by an independent accounting firm under generally accepted accounting principles.

(e) "Authority" — means the California Health Facilities Financing Authority.

(f) "Authority Staff" — means employees of the Authority.

(g) "Broad Geographic Distribution" — means that approximately eight million dollars (\$8 million) in Grant funds will be allocated to each of the following four geographic regions for Projects in that region:

1. Central Coast: the counties of Mendocino, Sonoma, Marin, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Benito, Monterey, Santa Cruz, San Mateo, and San Francisco;

2. Los Angeles/Ventura: the counties of Los Angeles and Ventura;

3. Northern/Central: the counties of Del Norte, Humboldt, Siskiyou, Trinity, Shasta, Modoc, Lassen, Tehama, Glenn, Butte, Plumas, Sierra, Yuba, Sutter, Lake, Colusa, Yolo, Sacramento, El Dorado, Placer, Nevada, Amador, Alpine, Calaveras, San Joaquin, Stanislaus, Tuolumne, Mono, Mariposa, Merced, Madera, Fresno, Kings, Tulare, and Inyo;

4. Southern California: the counties of San Luis Obispo, Santa Barbara, Kern, San Bernardino, Orange, Riverside, San Diego, and Imperial.

The balance of funds in excess of \$32 million shall be allocated on the basis of total points received by each Applicant, regardless of geographic location.

(h) "Clinic" — means a "Community Clinic" or "Free Clinic", as defined by Section 1204(a) of the Health and Safety Code that has been licensed by the State Department of Health Services as of January 1, 2004. "Clinic" also includes a Clinic, as described in Section 1206(c) of the Health and Safety Code, that is exempt from licensure and conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(i) "Community Clinic Grant Program of 2005" or "program" — means the program resulting from the Act.

(j) "Commissioner" — means the California Insurance Commissioner.

(k) "Completed Project" — means an eligible Project that is completed (in place and fully operational).

(l) "Executive Director" — means the Executive Director of the Authority.

(m) "Expansion of Services" — Adding a new service or expanding capacity to an existing service.

(n) "Final Allocation" — means the amount of funds awarded to an Applicant by the Authority based on an Initial Allocation that has been adjusted according to the total amount of funds available for distribution, Broad Geographic Distribution and any appeals approved by the Authority.

(o) "First (1st) Funding Round" — means the Funding Round (1st) for which an application is due on the final filing date noticed in the Application Form. Funding available for the First (1st) Funding Round is equal to \$35 million (\$35,000,000), plus interest earnings on these funds, plus any remaining funds from the Grant program previously authorized and funded by Section 15438.6 of the Government Code, as enacted by Stats. 2000, ch. 99.

(p) "Going Concern Qualification" — means a finding by an independent accounting firm that the carrying value of an entity's assets will be realized and its liabilities will be liquidated in the ordinary course of continuing business activity.

(q) "Grant" — means a Final Allocation approved by the Authority.

(r) "Grant Agreement" — means a separate agreement between the Authority and Grantee which specifies the terms and conditions of the grant as specified in Section 7092

(s) "Grantee" — means an Applicant that has received Grant approval by the Authority.

(t) "Health Professional Shortage Areas (HPSAs)" — means those areas or facilities designated as having a shortage of health professionals by the Secretary of the U.S. Department of Health and Human Services in accordance with Section 254e of Title 42 of the United States Code. (Federal law also recognizes facility HPSAs.)

(u) "Improvement of Services" means an improvement in the quality of care provided to existing patients.

(v) "Indigent Care" — means a ratio calculated by Authority Staff between the number of Indigent patients and the number of total patients that are reported by each Applicant in its 2004 annual report on file with

the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

(w) "Initial Allocation" — means an Authority Staff-level decision granting an allocation to an Applicant based on score and rank, adjusted according to the total amount of funds available for distribution and for Broad Geographic Distribution.

(x) "Medically Underserved Areas (MUAs)" — means those areas designated as medically underserved by the Secretary of the U.S. Department of Health and Human Services as published in the Federal Register from time to time in accordance with Section 51c.102 of Title 42 of the Code of Federal Regulations.

(y) "Medically Underserved Populations (MUPs)" — means the population of an urban or rural area designated as medically underserved by the Secretary of the U.S. Department of Health and Human Services in accordance with Section 254b of Title 42 of the United States Code.

(z) "Memorandum of Understanding (MOU)" — means the agreement entered between the California Insurance Commissioner and the Authority authorizing the Authority to administer this program and providing the basic parameters for the program.

(aa) "Project" — means the construction, expansion, remodeling, renovating, acquiring, furnishing, or equipping of a Clinic, and includes the removal, installation, and maintenance of electronic and non-electronic equipment, as well as the reasonable costs associated with training personnel on the use of the new equipment. Project does not include normal operating expenditures, non-capital equipment, refinancing, or reimbursement of expenditures prior to the Final Allocation date. No pre-construction costs are allowed, except for eligible permit and planning fees.

(bb) "Project Period" means a defined beginning and end date approved by the Authority for implementation of the Project.

(cc) "Second (2nd) Funding Round" — means funding of grants after the First Round Funding, subject to funds being available.

(dd) "Special Needs Populations" — means a population of patients with serious chronic or acute conditions that require an extraordinary level of experience and care to provide health care services that result in extraordinary costs to a Clinic.

(ee) "Total Grant Funds" means \$35 million, plus interest earnings on these funds, plus any forfeited funds returned from Grantee's back to the Authority, plus remaining funds from the grant program previously authorized and funded by Section 15438.6 of the Government Code, as enacted by Stats. 2000, ch. 99.

(ff) "Total Net Assets" — means the total equity of a non-profit organization, representing the difference between its total assets and its total liabilities, as shown on the Applicant's final Audited Financial Statement for 2004, or if not available Federal Income Tax Form 990 for 2004.

(gg) "Uncompensated Care" — means a population of patients measured as a ratio calculated by Authority Staff comparing self-pay and non-pay patient encounters with total patient encounters, as reported by primary care and specialty clinics with the Office of Statewide Health Planning and Development in accordance with Section 1216 of the Health and Safety Code, as shown in the annual report for 2003.

(hh) "Underinsured Population" — means the number of patients having partial health insurance coverage and required to self-pay or pay on a sliding scale for all or part of their health care services not provided by their health insurance program or plan.

(ii) "Uninsured Population" — means a population of patients measured as a ratio calculated by Authority Staff comparing patient encounters from the Child Health and Disability Prevention Program (CHDP), the Medically Indigent Services Program (MISP), the County Medical Services Program (CMSP), the Expanded Access to Primary Care Program (EAPC), other county programs, other state programs, self-pay and non-pay encounters with total patient encounters filed by primary care and specialty clinics with the Office of Statewide Health Planning and Development in accordance with Section 1216 of the Health and Safety Code, as shown in the annual report for 2004.

(jj) "Waiting List" — means a list of Applicants who are waiting for Grant funds, if Grant funds are available after the funding of the First (1st) Funding Round.

(kk) "Working Capital" — means the excess of current assets over current liabilities, as shown on the Applicant's 2004 Audited Financial Statements or Federal Tax Form 990.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New chapter 3 (sections 7075–7099) and section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (v) and (aa) filed 12–14–2005 as an emergency; operative 12–14–2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4–13–2006 or emergency language will be repealed by operation of law on the following day.
3. Repealer of chapter 3 (sections 7075–7079) and repealer of section by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New chapter 3 (sections 7075–7079) and section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7076. Eligible Clinic.

(a) A Clinic shall be eligible to apply for a Grant if all of the following conditions are met:

- (1) the 2004 Audited Financial Statements of the Clinic do not contain any Going Concern Qualification;
- (2) the Project completion timeline is within eighteen (18) months from the date of Final Allocation;
- (3) the Clinic has submitted to the Authority a completed Application Form; and

(4) the Clinic has filed an annual report to the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code, except those Clinics that are exempt from this requirement. Clinics that are exempt from filing annual reports must submit the data as requested by the Authority in Attachment D of Application Form #CHFFA 6, Rev. 10–2005.

(b) If a Clinic does not meet the conditions in subdivision (a), the Clinic shall be deemed ineligible and will not be considered for funding.

(c) If the Clinic proposes to use Grant funds for a Project other than equipment acquisition on certain property, the Clinic shall provide evidence that either:

- (1) The Clinic owns the property, or
- (2) the Clinic is a lessee under a lease agreement that will continue for at least five years after the Completed Project date.

(d) If the Clinic proposes to use Grant funds for a Project that includes permit fees, project planning fees, or land acquisition costs, the Clinic shall provide the Authority with reasonable assurance, at the Authority's discretion, that any of these are components of a larger Project that will meet the program objectives.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (c), (d), (g) and (j), Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7077. Eligible Project.

Grants shall be used for purposes as defined under "Project" in Section 7075.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by

3–28–2006 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7078. Maximum Grant, First Funding Round.

No Grant shall exceed two hundred fifty thousand dollars (\$250,000) per Clinic. If an organization consists of or is affiliated with more than one Clinic, then each eligible Clinic may receive Grant funds of up to two hundred and fifty thousand dollars (\$250,000). However, no organization along with its affiliates may receive Grant funds in excess of seven hundred and fifty thousand dollars (\$750,000). If an organization receives Grant funds in excess of two hundred and fifty thousand dollars (\$250,000) as permitted by this section, the entire amount may be expended among approved projects, as reflected in the organization's Application(s).

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7079. Maximum Grant, Second Funding Round.

If Grants are awarded pursuant to Section 7089, the process for determining Maximum Grants for the Second Funding Round shall be adopted at a future date.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7080. Application Form/Submission.

Blank Application Forms are available from the Authority and the Authority's website and may be referred to as the Community Clinic Grant Program of 2005 Grant Application Form #CHFFA 6, Rev. 10–2005, which is hereby incorporated by reference. The Applicant shall submit a completed Application Form in the manner set forth in Sections 7081 and 7082 of this chapter. The Community Clinic Grant Program of 2005 Overview and Instructions for Grant Application, Form #CHFFA 6, Rev. 10–2005 are hereby incorporated by reference.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6(b), (d) and (j), Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7081. Application Form Submission.

(a) Application Forms shall be submitted in duplicate to the Authority. Applications must be received on or before 5:00 pm on the final filing date noticed in the Application Form. Application Forms received after the final filing date/time will not be accepted for review or evaluation and will be returned to the Applicant by mail. Application Forms shall be con-

sidered complete and final as of the date received. The Authority Staff shall NOT accept additional written information after the application is received, for purposes of evaluating the Application Form, unless requested by the Authority.

(b) When the Applicant is part of or is affiliated with an organization that consists of or is affiliated with more than one Clinic, the Applicant's Application Form shall list all Clinics that are part of or affiliated with the Applicant.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11–28–2005 as an emergency; operative 11–28–2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–28–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3–13–2007; operative 3–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7082. Content of Application Form.

The following information shall accompany the Application Form:

(a) Financial Information. Applicants shall submit a copy of their 2004 final Audited Financial Statements (drafts not permitted). If an Applicant certifies that an audit was NOT completed for the year 2004, the Applicant shall submit a copy of its 2004 Federal Tax Return — Form 990

(b) Organizational information. Applicants shall submit:

(1) a copy of their tax-exemption letter from both the Internal Revenue Service and the State Franchise Tax Board; and

(2) a copy of their most recent license or licenses (if the application references other licensed clinics), or notification of exemption from licensure, from the State Department of Health Services.

(c) Legal Information. The Applicant shall complete a legal status questionnaire.

(d) Agreement and Certification. The Applicant shall agree and certify to the following terms and conditions as a requirement of receiving any Grant. The agreement and certification shall be executed by the Executive Director or Chief Executive Officer, Chief Financial Officer, or other authorized officer of the Applicant, on behalf of the Applicant. The authorized officer of the Applicant shall agree and certify to the following terms and conditions as a requirement of receiving any Grant:

(1) The information contained in the Application Form and attachments is true and correct to the best of his or her knowledge and belief and understands that any misrepresentation may result in the cancellation of a Grant and other actions permitted by law and the Grant Agreement.

(2) The Applicant may be required to return all or a portion of the Grant if the Applicant fails to complete the Project as approved. In cases where the Grant will fund permit fees, planning fees, or land acquisition costs as part of an approved Project, the Applicant may be required to return all Grant funds if the Authority cannot determine the associated larger Project has been completed, based on the timelines provided within the Application Form.

(3) Grant funds will be used only for the Project described in the Application Form, unless a change in the Project is approved in writing by the Authority or Authority Staff pursuant to Section 7090.

(4) If a Federal Tax Return Form 990 was submitted in lieu of an Audited Financial Statement, no audit of financial statements was performed for 2004.

(5) The financial records of the Project are subject to audit and inspection by the Authority, California Department of Insurance or its designee, and/or the Commissioner.

(6) The Applicant has disclosed all information requested in the legal status questionnaire.

(7) The Applicant will notify the Authority in writing at the time of Project completion with evidence of completion included.

(8) The Applicant will provide all documents and information required by law and meets all necessary requirements prior to release of the Grant.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (d)(4) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7083. Application Form Evaluation.

(a) Application Forms shall be reviewed and evaluated by Authority Staff within 60 days from the filing deadline according to the evaluation criteria described in Section 7084.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7084. Evaluation Criteria.

Authority Staff using a point system, with a maximum of 165 points, will evaluate Grant Applications. Authority Staff shall evaluate each Application Form based on the following criteria:

(a) Population served. (Maximum sixty (60) points).

(1) Uncompensated Care

The Applicants shall be awarded points based on the amount of Uncompensated Care provided to patients, as reflected by the ratio between the number of Uncompensated Care encounters and the number of total patient encounters that were reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

SCORING — The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(2) Indigent Care

The Applicants shall be awarded points based on the amount of care provided to Indigent patients (at or below 200% of the Federal poverty level) as reflected by the ratio between the number of Indigent patients and the number of total patients that are reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

SCORING — The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(3) Care to the Uninsured Populations

The Applicants shall be awarded points based on the amount of care provided to the uninsured, as reflected by the ratio between the number of uninsured patient encounters and the number of total patient encounters that were reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the California Health and Safety Code.

SCORING — The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring

in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(4) Care to the Underserved Populations

These areas include Health Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs), or Medically Underserved Populations (MUPs).

SCORING — Applicants located in federally designated shortage areas shall receive ten (10) points.

(5) Special Needs Populations

Applicants must include third party statistical data to demonstrate the nature and severity of the special needs.

SCORING — Applicants who serve a Special Needs Population shall receive five (5) points.

(b) Proposed services. (Maximum fifty (50) points) (Points may be awarded under either (1) or (2) but not both.)

Each Applicant shall describe the proposed Project and provide supporting documentation that explains:

(1) How well the proposed Project will expand services to the indigent, underinsured, and uninsured populations, which will be evaluated by the following:

(A) Extent to which the proposed Project reflects a superior understanding and prioritization of community needs, community problems or barriers to accessing health care services within the community, that have been documented by third party sources. (Maximum twenty (20) points)

(B) Amount and importance to community of new services that the Project proposes to provide. (Maximum twenty (20) points)

(C) Extent to which Applicant justifies achievable and convincing outcomes, and methods that will effectively monitor and evaluate those outcomes. (Maximum ten (10) points)

(2) If the Project will not result in net additional or new services to existing or new patients, how well the proposed Project will maintain or improve existing services to indigent, underinsured, and uninsured populations, which will be evaluated by the following: (Maximum forty (40) points)

(A) Extent to which the proposed Project reflects a superior understanding and prioritization of community needs, community problems or barriers to accessing health care services within the community that have been documented by third party sources. (Maximum fifteen (15) points)

(B) Amount and importance to community of services that the Project proposes to maintain that otherwise might be eliminated, or extent to which the proposed Project will improve existing services. (Maximum fifteen (15) points)

(C) Extent to which Applicant demonstrates achievable and convincing outcomes, and methods that will effectively monitor and evaluate those outcomes. (Maximum ten (10) points)

(c) Financial capacity. (Maximum 20 points).

Authority Staff shall review each Applicant's 2004 Audited Financial Statements (or 2004 Federal Tax Form 990) and shall assign points based on the Total Net Assets and Working Capital of the Applicant.

(1) The Total Net Assets of each Applicant shall be evaluated as follows:

Total Net Assets	Points
Less than or equal to \$250,000	10
\$250,000-\$500,000	5
\$500,000-\$750,000	3
\$750,000 and above	0

(2) The Working Capital of each Applicant shall be evaluated as follows:

Percent Of Project	Points
Less than or equal to 10%	10
11%-30%	5
31%-40%	3
41% and above	0

(d) Project timeline/readiness/feasibility (Maximum of 35 points).

(1) Authority Staff shall determine how well each Applicant demonstrates project timelines/readiness and feasibility based upon the following:

(A) A Project timeline that includes the following (not scored, but required):

1. An expected start date (e.g., construction start date(s) and/or equipment purchase date(s)).
2. An expected completion date (e.g., construction completion date(s), acquisition completion dates, and/or equipment installation date(s)).
3. Problems anticipated in implementing the Project and how problems will be managed to ensure timely completion.

(B) Project readiness after a review of all of the following: (Maximum twenty (20) points)

1. For all Projects with the exception of equipment acquisition Projects, each Applicant shall submit estimates of Project costs and evidence of property ownership or, if the property is leased by a Clinic, a copy of the lease agreement extends at least 5 years from the Completed Project date. The Applicant shall also provide building permits and/or executed construction contracts, if available. An Applicant with a Project that does not yet have an executed construction contract or building permit, but is actively in the process of obtaining one, shall provide a detailed statement that explains the status of obtaining the document.
2. For Projects that include the acquisition of real property, each Applicant shall submit a copy of an executed purchase and sale agreement/option agreement (or status of obtaining one) or other evidence of site control to the satisfaction of the Authority.
3. For equipment acquisition Projects, each Applicant shall submit a specific list of items and cost estimates of equipment or copies of invoices, and if applicable, cost estimates of equipment removal, installation and implementation.
4. If funding sources other than the Grant are required to complete the Project, each Applicant shall provide approval or commitment letters from the other funding sources, confirming that the funding is secured and available in accordance with the Project timeline and budget.

(C) Whether implementation of the Project is feasible (Maximum 15 points.)

1. Each Applicant shall submit plans for Project implementation that includes credible staffing, operations and reimbursement figures. If the Project will result in an expansion of services, the Applicant shall provide an organization chart identifying key personnel for the expanded services.
2. Each Applicant shall submit a prepared feasibility study, funding letters or other documentation, such as the minutes of the Board of Director meeting in which the project was approved, to demonstrate that the Project will generate sufficient revenues to provide on-going support for new or expanded services and/or research programs. If revenues generated by the Project will be insufficient, the Applicant's revenues shall be sufficient as determined by Authority Staff to provide on-going support.

(D) If the Authority Staff determines at its discretion that the Applicant does not demonstrate timeliness, readiness, or feasibility, applicant MAY NOT be eligible for grant funding.

(e) The sources and uses of funds (not scored but required):

(1) The Applicant shall detail all sources of funds required to complete the proposed Project. Sources may include, but are not limited to, the total Grant request, borrowed funds, internal assets, and other sources. If the Project, or a portion of the Project, has been or will be submitted to other lenders or grantors for funding, the Applicant shall list them and the status of their consideration.

(2) The Applicant shall detail the uses of all funds required to complete the proposed Project. The total uses shall not exceed the total of all available fund sources.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(2) and (d)(1)(D) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Com-

pliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.

3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7085. Initial Allocation.

The Authority Staff shall rank the Application Forms based on the highest scores received. In the event that more than one Applicant has the same score, Authority Staff shall assign those Applicants the same ranking. The Executive Director shall make an Initial Allocation to the Applicants, taking into account the ranking of all Applicants, the total amount of funds requested and the total amount of funds available. In the event total funds requested exceed total funds available, the Executive Director shall make an Initial Allocation according to the following allocation schedule:

(a) The Authority shall allocate available funds to the highest-ranking Applicants, equal to 100 percent of the Applicant's Grant request, to be known as Rank # 1.

(b) The Applicants who score below Rank # 1, will be maintained on a Waiting List, and may be eligible for funding in the Second (2nd) Funding Round, if funds are available.

(c) In the event that Applicants score the same points, Authority Staff will determine ranking based on points scored in the following order: population served, proposed services, financial capacity, and project readiness.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (c) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7086. Broad Geographic Distribution.

(a) After the Initial Allocations are made, the Executive Director shall ensure that a minimum of eight million dollars (\$8,000,000) has been initially allocated for Projects in each of four (4) regions, including the Central Coast, Los Angeles/Ventura, Northern/Central and Southern California. If any region receives less than eight million dollars (\$8,000,000) in total Grant funds, the Initial Allocation to the regions with excessive funds shall be reduced in an amount sufficient to mitigate the deficiency in any region receiving insufficient funds. To accomplish this purpose, funds shall be re-allocated from the lowest scored Applicants in the region with excessive funds to the highest scored Applicants that did not receive Grant funds under the Initial Allocation in the region with insufficient funds.

(b) The distribution of the Total Grant Funds in excess of \$32 million allocated to particular regions shall be based solely on points scored by each Applicant, regardless of the Applicant's geographic locations.

(c) In the event that an Applicant appeals to the Authority and the Authority approves the appeal, the funding for the approved appeal will come from excess funding described in subdivision (b) of this Section. To accomplish this purpose, funds shall be re-allocated from the lowest scored Applicants that were identified as eligible for the excess funding.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.

2. Amendment of subsection (b) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7087. Notification of Initial Allocation.

When the Initial Allocation of funds has been made to Applicants after taking into account the total amount of funds available, and adjusted to allow for Broad Geographic Distribution, the Authority shall notify each Applicant in writing, stating their score and proposed amount of the Initial Allocation, or the Applicant's position on the Waiting List, if applicable.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7088. Appeals.

(a) Availability. An Applicant may file an appeal of any Initial Allocation. The grounds for any such appeal shall be limited to Applicant eligibility pursuant to Sections 7076 and 7083. No Applicant may appeal the Authority Staff evaluation of an Initial Allocation to another Applicant.

(b) Timing. The appeal shall be submitted in writing and must be received by the Authority no later than ten (10) calendar days following the transmittal date of the notification of Initial Allocation.

(c) Review. The Authority Staff shall review the written appeal based upon the existing documentation submitted by the Applicant when the Application Form was filed. The Authority Staff shall make a finding as to the merit of the appeal and shall notify the Applicant as to the decision no later than ten (10) calendar days after receipt of the appeal. The decision of Authority Staff may be further appealed to the Authority, by written notification to the Executive Director and personal appearance before the Authority. The Executive Director shall notify the Applicant of the date of the Authority meeting at which the matter will be considered.

(d) Successful appeals. If the Authority approves Grant funding to an Applicant on appeal, the funding for the Applicant's Project shall be secured by amending the Initial Allocation, which may result in a reduction or elimination of Grant funds awarded to lower scoring Applicants who would have otherwise received Grant funds. If this occurs, the lower scoring Applicants will be placed on the Applicant Waiting List.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (a) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7089. Approval of Grant and Notification of Grantees.

When Initial Allocations have been determined, after taking into account the total funds available, Broad Geographic Distribution and any appeals considered by the Authority, Authority Staff shall recommend to the Authority at its regularly scheduled meeting that the Initial Allocations be approved as Final Allocations. Any Final Allocation approved

by the Authority shall be awarded as Grants. Grantees shall be notified within five (5) business days in writing of the amount of the Grant approval.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7090. Any Remaining Funds.

If there are any remaining funds after the First (1st) Funding Round, the Authority may, in its sole discretion, award Grants to those Applicants on the Waiting List in a Second (2nd) Funding Round. After funding Grants to Applicants on the Waiting List, the Authority may, in its sole discretion, award Grants in a manner that is consistent with the purpose and requirements of the program.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7091. Approval of Grant Use Change.

The Authority or the Authority Staff may, on a case-by-case basis, consider a change in the use of the Grant if the Grantee demonstrates, to the Authority or the Authority Staff's satisfaction, that the change is consistent with the program.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7092. Grant Agreements.

The terms and conditions of a Grant shall be set forth in a Grant Agreement, which shall include, but not be limited to, all of the following terms and conditions:

- (a) A Grant amount not greater than the maximum Grant amount shown under Section 7078.
- (b) A Project Period. The project period may be extended at the discretion of the Authority, pursuant to Section 7095.
- (c) Disbursement procedures pursuant to Section 7093 or Section 7095, as applicable.
- (d) A provision that any unused funds and any unused investment earnings on such Grant funds shall revert to the Authority.
- (e) Agreement to comply with the Community Clinic Grant Program of 2005 and these regulations.
- (f) Agreement that the Grantee will defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant or Project.
- (g) Agreement to comply with state and federal laws outlawing discrimination, including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin,

physical disability (including HIV and AIDS), mental disability, medical condition (including cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave.

(h) Agreement that continued compliance with Community Clinic Grant Program of 2005 requirements is the Grantee's responsibility.

(i) Agreement that the Grant shall only be used for Projects as described in Grantee's Application Form and approved by the Authority.

(j) Any audit provisions.

(k) Agreement that the Grantee will not dispose of any component of the Project before the end of the useful life of that component of the Project.

(l) Any provisions relating to lease agreements pursuant to Section 7094.

(m) Any other provisions required by the Authority.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (g) and repealer and new NOTE filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7093. Release of Funds.

(a) No Grant funds shall be released to a Grantee until the following information has been provided to the satisfaction of Authority Staff:

(1) For construction projects, any supporting documentation that was incomplete with the Application Form shall be finalized and submitted along with a copy of the executed construction contract and the building permit.

(2) For real property acquisition Projects, a copy of the executed purchase and sale agreement/option agreement and a copy of an appraisal reflecting that the appraised value of the real property (when added to the amount of reasonable transaction and closing costs) is not less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be no older than six months and shall be completed by a state certified appraiser.

(3) For all construction Projects, evidence of property ownership or if the property is leased to a Clinic, a copy of the lease agreement that satisfies the requirement of Section 7094. Construction contracts in excess of \$25,000 require copies of three (3) bids, exceptions to this policy will be considered on a case by case basis, with adequate justification.

(4) For equipment acquisition Projects, any supporting documentation that was incomplete when the Application Form was submitted or not provided at that time shall be finalized and submitted along with a list of items to be purchased and all purchase orders. Any single equipment, furnishing, or information technology item in excess of \$25,000 requires copies of three (3) bids, exceptions to this policy will be considered on a case-by-case basis, with adequate justification.

(5) Evidence that all other funds, if needed, are in place to complete Project.

(6) An executed Grant Agreement.

(7) When applicable, evidence that there are no outstanding issues related to the California Environmental Quality Act or any other applicable laws, if this information was not provided with the Application Form.

(8) Completed Grant Disbursement Forms.

(b) Grantee shall provide this information within twelve (12) months of the date of Final Allocation for the corresponding funding round or the grant will be forfeited to the Authority except in cases where the recipient demonstrates, to the satisfaction of the Authority, extraordinary circumstances that prevent the recipient from meeting this requirement.

(c) Documentation provided for the release of Grant funds shall clearly show that the Grant award does not exceed the cost of the Project.

(d) Grant funds shall be released in one (1) lump disbursement only, with exceptions to be approved on a case-by-case basis by the Authority Staff.

(e) The Authority shall retain 10 percent of the Final Allocation amount for each applicant until adequate Project completion documentation has been provided.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(t) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7094. Requirements for Construction Projects on Leased Property.

If a Clinic proposes to use Grant funds for a Project other than equipment acquisition on property where the Clinic is a lessee under a lease agreement, the following requirements shall be satisfied prior to any release of Grant funds pursuant to Sections 7093:

(1) The lease agreement shall provide the Clinic full access to the site to carry on its healthcare purposes. The term of the lease agreement must be at least 5 years.

(2) The Grant Agreement must provide that if the lease agreement is terminated prior to the term provided in (1) above, the Authority is entitled to recover the Grant funds pursuant to Section 7096.

(3) No Projects on leased property shall include improvements to any common areas that are shared with other tenants or areas that are not leased by the lessee Clinic under the lease agreement.

(4) Prior to approval of the Grant by the Authority, the Applicant shall submit the proposed lease agreement for review.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. New NOTE filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7095. Completion of Grant Funded Project.

(a) The Grantee shall certify to the Authority that the Project is complete and, to the extent not already provided to the Authority, provide supporting documentation as follows:

1. Construction Projects require documentation including, but not limited to, copies of the certificate of occupancy, final payment certification by the architect, final payment request from the contractor and corresponding copies of cancelled checks or other documentation supporting payment.

2. Real property acquisition Projects require a copy of the final closing statement with certification by the title company.

3. Equipment acquisition Projects require complete packages of purchase orders, invoices and copies of cancelled checks or other documentation supporting payment.

(b) If the Grantee fails to complete the Project within eighteen (18) months from the Final Allocation date (plus any Authority or Authority

Staff approved extensions), the Authority may require remedies, including forfeiture and return of the Grant to the Authority.

(c) On a case-by-case basis, the Authority or the Authority Staff may approve a time extension beyond 18 months for extraordinary or unavoidable delays where the Grantee can demonstrate that it occurred through no fault of its own.

(d) Documentation provided to establish the completion of a Project should clearly show that the Grant award did not exceed the cost of the Project.

(e) Upon receipt of acceptable documentation exhibiting project completion, the Authority shall release the 10 percent retention of Grant funds to the Grantee.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7096. Recovery of Funds for Non-Performance and Unused Funds.

(a) If the Authority determines that Grants were not used consistent with the Community Clinic Grant Program of 2005 requirements and the terms of the Grant Agreement for an approved Project, the Authority may require remedies, including a return of all Grant funds.

(b) In cases where Grant funds paid for a component of a Project that does not specifically benefit Program targeted patients, such as permit fees, planning fees, or land acquisition costs, and if the Authority determines the Grantee did not complete a larger Project as described in the timelines provided with the Application, the Authority may require remedies, including a return of all Grant funds.

(c) If any portion of the Grant is forfeited to the Authority, the forfeited funds shall be allocated to the highest scoring Applicant that did not receiving an Allocation.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7097. Audits.

The Authority Staff, California Department of Insurance or its designee, Commissioner, or Bureau of State Audits may conduct periodic audits/site visits to ensure Grantees are using Grant funds consistent with approved Projects. Grantees shall retain all Program documentation and financial data necessary to substantiate the purposes for which the Grant

funds were spent for a period of three (3) years after the certification of completion of the Project has been submitted.

NOTE: Authority cited: Sections 15437 and 15438.6(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7098. Reporting Requirements.

(a) The Authority shall provide notice to the Commissioner upon approving or denying any application from any Clinic. The Authority shall provide annual reports to the Commissioner and shall include at a minimum, total dollars awarded in Grants, description of each Project funded in the period reported upon, the amount awarded to each Applicant, as well as a list of all Applicants who did not receive assistance and the reasons for such denial.

(b) Pursuant to Section 15438.6(i) of the Government Code, the Authority shall report to the Joint Legislative Budget Committee on the recipients of grant funds, the total amount of each grant and the purpose for which each grant was awarded.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (a) and new NOTE filed 12-14-2005 as an emergency; operative 12-14-2005 (Register 2005, No. 50). A Certificate of Compliance must be transmitted to OAL by 4-13-2006 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
4. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

§ 7099. Administration of the Program.

Wellpoint Health Networks Inc. has made a one-time \$35 million contribution payable to the Authority, who will administer and distribute funds for the program. Per agreement, all of the \$35 million, plus interest earned on those funds shall be used for Grants to Applicants. No funds shall be used for any other purpose, including administration of the program.

NOTE: Authority cited: Sections 15437 and 15438(d), Government Code. Reference: Sections 15438(q) and 15438.6, Government Code.

HISTORY

1. New section filed 11-28-2005 as an emergency; operative 11-28-2005 (Register 2005, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-28-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 11).
3. New section filed 3-13-2007; operative 3-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 11).

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**CALIFORNIA
CODE OF
REGULATIONS**

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority

Vol. 5

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Division 11. California Pollution Control Financing Authority

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Division 11. California Pollution Control Financing Authority

(Originally Printed 3-25-73)

FOREWORD

The authorization for the State of California to issue Pollution Control Revenue Bonds was passed by a vote of the people November 7, 1972 (Proposition 3). Enabling legislation (Assembly Bill 1925, Knox) was passed by the State Legislature during the 1972 Regular Session. It was approved by the Governor and filed with the Secretary of State on December 19, 1972 (Chapter 1257, Statutes of 1972), and was titled the California Pollution Control Financing Authority Act. The effective date of Chapter 1257 was March 7, 1973. Several amendments were made by Assembly Bill 542, Knox (Chapter 277, Statutes of 1973) which was effective August 15, 1973. Further amendments have been made by Assembly Bill 4108, Knox (Chapter 1473, Statutes of 1974), Assembly Bill 2126, Knox (Chapter 1165, Statutes of 1975, Assembly Bill 1758, Lewis (Chapter 957, Statutes of 1975), Assembly Bill 2105, Dills (Chapter 1381, Statutes of 1976), Assembly Bill 3750, Knox (Chapter 1384, Statutes of 1976), Assembly Bill 855, Knox (Chapter 650, Statutes of 1977), Assembly Bill 1558, Hart (Chapter 1082, Statutes of 1977), Assembly Bill 121, Lewis (Chapter 1195, Statutes of 1977), Assembly Bill 980, Knox (Chapter 839, Statutes of 1979), Assembly Bill 2646, Bates (Chapter 794, Statutes of 1980), and Senate Bill 216, Boatwright (Chapter 1091, Statutes of 1981). The legislation relating to the Act and the Authority is contained in Division 27 of the Health and Safety Code (commencing with Section 44500).

Article 1. General Provisions

§ 8001. Objectives.

The California Pollution Control Financing Authority shall act in such a manner as to achieve the objectives outlined in Sections 44501 and 44502 of the Health and Safety Code.

NOTE: Authority cited: Section 44525, Health and Safety Code. Reference: Division 27, commencing with Sections 44500, et. seq., Health and Safety Code.

HISTORY

1. New Chapter 11 (Sections 8001-8048, not consecutive) filed 8-21-73 as procedural and organizational; effective upon filing (Register 73, No. 34).
2. Amendment to section and NOTE filed 2-17-77; effective thirtieth day thereafter (Register 77, No. 8).

Article 2. Definitions

§ 8020. Terms/Definitions.

The following terms and definitions shall be used in the manner described below, when used in this Chapter.

(a) "Act" means the California Pollution Control Financing Authority Act, Division 27, commencing with Section 44500 of the Health and Safety Code.

(b) "Applicant" means the person, company, corporation, partnership, entity or group of entities requesting financing pursuant to Section 8031 of these Regulations.

(c) "Authority" means the California Pollution Control Financing Authority.

(d) "Authority Fund" means the California Pollution Control Financing Authority Fund.

(e) "Bonds" means any negotiable bonds, notes, debentures, or other securities which the Authority is authorized to issue pursuant to the Act.

(f) "Chair" or "Chairman" means the Chairman of the California Pollution Control Financing Authority.

(g) "Conventional loan" means any loan agreement, note or other evidence of indebtedness entered into with or issued by an applicant to a bank, thrift or other financial institution or firm which is regularly in the business of extending credit, and which is not related to the applicant.

(h) "Effective Interest Rate" means the actual cost payable by an applicant to obtain financing. The cost includes the cost of issuing the bond or completing a conventional loan, cost of obtaining a letter of credit, surety, insurance policy or other credit enhancement, and the interest rate payable on the bond or conventional loan.

(i) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority.

(j) "Member" means a member of the California Pollution Control Financing Authority.

(k) "Request" means the application form and documents related thereto on which the Authority accepts requests for financing.

(l) "Small Business" means any person, company, corporation, partnership or entity that is classified as a small business pursuant to any of the size standards set forth in Title 13, Code of Federal Regulations, Part 121, Subpart A (1-1-94 Edition), which are incorporated herein by reference, or any person, company, corporation, partnership or entity that (together with affiliates) employs no more than 500 employees.

(m) "Small Business Assistance Fund" means the fund established by the Authority in Section 8041 pursuant to Health and Safety Code Section 44548.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520, 44526 and 44548, Division 27, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 3-8-74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment filed 2-17-77; effective thirtieth day thereafter (Register 77, No. 8).
3. Amendment filed 2-21-80; effective thirtieth day thereafter (Register 80, No. 8).
4. Amendment filed 6-3-83; effective thirtieth day thereafter (Register 83, No. 23).
5. Amendment filed 7-3-86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 27).
6. Amendment of subsection (k) filed 3-19-92 as an emergency; operative 3-19-92 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 7-17-92 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3-19-92 order transmitted to OAL 7-30-92 and filed 9-9-92 (Register 92, No. 37).
8. Amendment of subsection (k) filed 4-8-93 as an emergency; operative 4-8-93 (Register 93, No. 15). A Certificate of Compliance must be transmitted to OAL 10-5-93 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 4-8-93 order transmitted to OAL 8-10-93 and filed 9-7-93 (Register 93, No. 37).
10. Editorial correction of HISTORY 8 (Register 93, No. 37).
11. Amendment filed 1-31-94 as an emergency; operative 1-31-94 (Register 94, No. 5). A Certificate of Compliance must be transmitted to OAL by 7-30-94, pursuant to Health and Safety Code section 44520, or emergency language will be repealed by operation of law on the following day.
12. Amendment refiled 7-21-94 as an emergency, including additional amendment of subsection (l); operative 7-31-94 (Register 94, No. 29). A Certificate of Compliance must be transmitted to OAL by 1-27-95 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 7-21-94 order including amendment of subsection (l) transmitted to OAL 1-26-95 and filed 3-9-95 (Register 95, No. 10).

Article 3. General Provisions Relating to Authority Actions

§ 8030. Meetings.

(a) Regular meetings of the Authority will be held on the third Wednesday of each month at Sacramento, California unless the Authority orders a change in meeting dates.

(b) The Chairman shall designate the location of the meeting in the notice calling such meeting.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520 and 44534, Division 27, Health and Safety Code; and Section 11125, Government Code.

HISTORY

1. Repealer of former Article 3 (Sections 8030-8032) and renumbering and amendment of former Article 4 (Sections 8040-8048, not consecutive) to Article 3 (Sections 8030-8038, not consecutive) filed 6-3-83; effective thirtieth

day thereafter (Register 83, No. 23). For prior history, see Registers 82, No. 2; 80, No. 8; 77, No. 8; and 74, No. 10.

§ 8031. Requests for Financing.

The Authority will accept requests for financing in a form approved by the Executive Secretary. Requests for Financing forms may be obtained by writing to the Authority office located in either the City of Sacramento or Los Angeles.

NOTE: Authority cited: Sections 44526, Division 27, Health and Safety Code. Reference: Sections 44520 and 44534, Division 27, Health and Safety Code.

§ 8032. Acceptance of Requests.

In determining its acceptance or denial of requests for financing, either in whole or in part, the Authority may take into consideration such factors as: (1) certification and recommendation of the appropriate environmental authority, (2) location of the proposed project, (3) nature of the proposed project, (4) time of receipt of request for financing, (5) any other factors the Authority may deem pertinent.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520 and 44531–44539, Division 27, Health and Safety Code.

§ 8033. Application Fees.

A check drawn on a responsible bank or trust company in the amount of .0005 (one twentieth of one percent) of the amount of financing requested with a minimum of \$250.00 and a maximum of \$5,000.00, shall be made payable to "CPCFA Fund" and shall accompany each request for financing. Such fees provide for review and processing of the application and are nonrefundable. The application fees shall be applied to the payment of general fees if the project is financed.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520, 44525 and 44526, Division 27, Health and Safety Code.

§ 8034. General Fees.

The Authority charges a fee for reasonable and necessary administrative and program expenses connected with the sale of bonds. The fee shall be two tenths of one percent (.002) of the face value of the bonds issued. The applicant shall also reimburse the Authority for all reasonable and necessary out of pocket expenses which the Authority may incur at the applicant's request and all other expenses direct or indirect, properly allocable to the proposed financing. Unless paid out of the proceeds of the bonds issued, all fees for a particular proposed financing shall be paid by the applicant and deposited in the Authority Fund. The Authority shall be authorized to use general fees deposited in the Authority Fund to support Authority programs, including, but not limited to, the Capital Access Loan Program authorized by Article 7 of this Division 11.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520, 44525 and 44537.5, Division 27, Health and Safety Code.

HISTORY

1. Amendment filed 9–15–94; operative 9–15–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 37).
2. Amendment filed 9–10–96; operative 10–10–96 (Register 96, No. 37).
3. Amendment filed 12–18–2000 as an emergency pursuant to Health and Safety Code section 44520; operative 1–1–2001 (Register 2000, No. 51). A Certificate of Compliance must be transmitted to OAL by 7–2–2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–18–2000 order transmitted to OAL 6–14–2001 and filed 7–26–2001 (Register 2001, No. 30).

§ 8035. Small Business Assistance Fund Fees.

(a) The Authority shall charge an applicant who is not a small business as defined in Section 8020 a fee in addition to the fees required by Sections 8033 and 8034. The additional fee shall fund the Small Business Assistance Fund (SBAF). The amount of the fee shall be one percent (.01) of the face value of any tax exempt bonds issued and three tenths of one percent (.003) of the face value of any taxable bonds issued; provided, that in connection with the issuance of taxable bonds for which the .003 fee is charged, if such taxable bonds are refinanced with or converted to tax exempt bonds, the applicant shall pay an additional fee for deposit into the Small Business Assistance Fund in the amount of seven tenths of one percent (.007) of the face value of such taxable bonds. In the case of refunding or conversion of bonds, the fee percentage applicable on the date the original bonds were issued will be used to determine if additional SBAF fees are collectable. If the company did not pay a SBAF fee originally, the current fee percentage will apply to refundings or conversions.

If federal tax law or other legal provisions prevent the imposition of the above fees, each fee shall be the maximum that can legally be charged.

(b) The Authority shall refund a portion of the fee charged pursuant to subdivision (a) of this section if the occurrence of a subsequent event causes the original fee to exceed the amount allowed by federal tax law provisions, causing the bonds to lose their tax exempt status. The refund shall be the difference between the original fee charged and the maximum fee subsequently determined to be chargeable by bond counsel approved by the Authority.

(c) The Authority shall refund a portion of the fee charged if, in the judgment of the Authority, the amount in the Small Business Assistance Fund account exceeds the amount needed to operate the Small Business Assistance Fund program and to assist small businesses obtain financing. If the Authority makes a refund pursuant to this subdivision, the amount of the refund payable to each applicant shall be computed by multiplying the total amount to be refunded by the percentage each applicant contributed in fees to the total fees collected pursuant to this section.

(d) If an applicant refinances existing bonds with the issuance of new bonds, it shall receive a credit against the fee charged pursuant to this section in an amount equal to the net Small Business Assistance Fund fees paid on the earlier bonds.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 7–3–86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 27).
2. Amendment of subsection (a) filed 9–15–94; operative 9–15–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 37).
3. Amendment of subsection (a) filed 9–10–96; operative 10–10–96 (Register 96, No. 37).
4. Amendment of subsection (a) filed 6–1–98 as an emergency; operative 6–1–98 (Register 98, No. 23). A Certificate of Compliance must be transmitted to OAL by 9–29–98 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 6–1–98 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 52).
6. Amendment of subsection (a) filed 12–23–98; operative 12–23–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8036. Notice of Fees.

(a) The Authority shall mail notice to each applicant within thirty days of the effective date of this regulation setting out the fee chargeable pursuant to Section 8035. Thereafter, the Authority shall mail notice to each applicant when the Authority adopts its final resolution authorizing the sale of bonds for financing the applicant's project. If the applicant believes federal tax law provisions mandate a lower fee than that noticed by the Authority, it shall submit, no less than five days before the closing of the bond sale, an opinion of approved bond counsel setting out the maximum, allowable fee. The Authority shall charge the fee set out in the opinion.

(b) If bonds issued by the Authority bear a variable interest rate, the Authority may collect the fee in installments. The first installment shall be based on the maximum fee allowable under federal tax law provisions assuming the bonds bear the maximum interest rate provided for by the bonds. Further installments shall be payable at the discretion of the Authority when actual interest rates on the bonds can be determined.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44548, Division 27, Health and Safety Code.

HISTORY

1. Change without regulatory effect renumbering former Section 8036 to Section 8037 and new Section 8036 filed 7–3–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 27).
2. Amendment of subsection (b) filed 12–23–98; operative 12–23–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8037. Issuance of Bonds.

The Authority will adopt all necessary resolutions to approve or deny any request for financing. Approval may be made contingent upon appropriate certification.

The form of bonds, any resolution or resolutions authorizing such bonds, any trust agreement securing such bonds and any agreement relating to the purchase, sale or lease of the facilities financed with such

bonds, shall be agreed upon to the mutual satisfaction of the Authority and applicant.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Articles 4 and 5, Division 27, Health and Safety Code.

HISTORY

1. Change without regulatory effect renumbering former Section 8037 to Section 8038, and renumbering former Section 8036 to Section 8037 filed 7-3-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 27).

§ 8038. Certification.

The applicant will obtain any and all appropriate certificates from affected environmental agencies and submit all such certificates to the Authority prior to adoption of a Final Resolution for the issuance of bonds. If appropriate, a statement should be submitted stating why any approval or certificate has not been obtained or is unnecessary.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520 and 44533, Division 27, Health and Safety Code.

[The next page is 265.]

HISTORY

1. Change without regulatory effect renumbering former Section 8038 to Section 8039 and renumbering former Section 8037 to Section 8038 filed 7-3-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 27).

§ 8039. Public Purposes.

The Authority is not organized for profit and no part of its net earnings shall inure to the benefit of any private person.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44520, Division 27, Health and Safety Code.

HISTORY

1. Change without regulatory effect renumbering former Section 8038 to Section 8039 filed 7-3-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 27).

Article 4. Provisions Relating to Small Business Financings

§ 8040. Small Business Financing Program.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Sections 44520 and 44537.5, Division 27, Health and Safety Code.

HISTORY

1. Renumbering of former Article 4 (Sections 8040-8048, not consecutive) to Article 3 (Sections 8030-8038, not consecutive), and renumbering of former Article 5 (Section 8050) to Article 4 (Section 8040) filed 6-3-83 (Register 83, No. 23). For prior history, see Registers 80, No. 26; 80, No. 8; 78, No. 6; 77, No. 8; and 74, No. 10.
2. Repealer filed 8-28-87; operative 9-27-87 (Register 87, No. 35).

§ 8041. Small Business Assistance Fund Established.

The Authority hereby establishes the Small Business Assistance Fund to assist small businesses to obtain pollution control or other financing as authorized by Health and Safety Code Section 44548.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 7-3-86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 27).
2. Amendment filed 3-19-92 as an emergency; operative 3-19-92 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 7-17-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3-19-92 order transmitted to OAL 7-30-92 and filed 9-9-92 (Register 92, No. 37).
4. Amendment filed 1-31-94 as an emergency; operative 1-31-94 (Register 94, No. 5). A Certificate of Compliance must be transmitted to OAL by 7-30-94, pursuant to Health and Safety Code section 44520, or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 7-21-94 as an emergency; operative 7-31-94 (Register 94, No. 29). A Certificate of Compliance must be transmitted to OAL by 1-27-95 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 7-21-94 order including amendment of section transmitted to OAL 1-26-95 and filed 3-9-95 (Register 95, No. 10).

§ 8042. Eligibility for Assistance.

(a) An applicant, to be eligible for assistance, shall meet the following criteria:

- (1) It shall be a small business as defined in Section 8020.
- (2) It shall seek financing for a project that complies with the Act (commencing with Health and Safety Code Section 44500).
- (3) In connection with assistance in accordance with Section 8043 of this article, it shall seek financing that is no less than \$500,000.
- (4) It shall demonstrate a financial capability to make debt service payments and shall provide such collateral security (in the form of deeds of trust, security agreements, reserves, third party guarantees or other methods) as may be required by the holders of the bonds, the lender in a conventional loan, and the Authority as guarantor.

(b) An applicant shall receive assistance, provided sufficient funds are available, when the following conditions are satisfied:

- (1) The Authority has accepted the applicant's request for financing pursuant to Section 8032.
- (2) The Authority has determined that the applicant is eligible pursuant to subdivision (a) of this section.

(3) The Authority issues bonds to finance the applicant's project or the Authority approves a guarantee of a conventional loan which will finance the applicant's project.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 7-3-86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 27).
2. Amendment of subsection (a)(3) filed 4-8-93 as an emergency; operative 4-8-93 (Register 93, No. 15). A Certificate of Compliance must be transmitted to OAL 10-5-93 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4-8-93 order transmitted to OAL 8-10-93 and filed 9-7-93 (Register 93, No. 37).
4. Editorial correction of HISTORY 2 (Register 93, No. 37).
5. Amendment of subsections (a)(4) and (b)(3) filed 1-31-94 as an emergency; operative 1-31-94 (Register 94, No. 5). A Certificate of Compliance must be transmitted to OAL by 7-30-94, pursuant to Health and Safety Code section 44520, or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a)(4) and (b)(3) refiled 7-21-94 as an emergency; operative 7-31-94 (Register 94, No. 29). A Certificate of Compliance must be transmitted to OAL by 1-27-95 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 95, No. 10).
8. Certificate of Compliance as to 7-21-94 order including amendment of subsection (a)(3) transmitted to OAL 1-26-95 and filed 3-9-95 (Register 95, No. 10).

§ 8043. Assistance.

In addition to other assistance which the Authority shall be authorized to provide in accordance with this division:

(a) The Authority shall be authorized to provide any part or combination of the assistance described below, but the Authority shall not be required to provide any particular form of assistance to any applicant. The Authority shall be authorized to provide the form or forms of assistance that, in its judgment, will most effectively assist the applicant to (i) achieve financing for the project; (ii) obtain a bond rating of "A" from a national bond rating service if bonds are issued publicly; and (iii) obtain an effective interest rate for all or a portion of the term of the financing which, in the Authority's judgment, is comparable at the time of financing to the prevailing market rates which would be paid by larger businesses for similar types of financing (but for any conventional loan not lower than the "prime rate" then prevailing):

(1) Pay for the reasonable costs of issuing bonds or obtaining conventional loans. For bond issues, these costs include bond counsel fees, underwriter or placement agent fees or discount and related expenses, printing fees, fees due to other state agencies, accounting fees, consultant's fees, and other expenses directly related to the issuance of bonds that are normally paid from the proceeds of a bond issued at the time of closing. For conventional loans, these costs include counsel fees, loan origination fees, consultant's fees, and other costs normally incurred in obtaining a commercial loan. The costs of issuing bonds or obtaining conventional loans shall not include expenses incurred by the applicant for other attorney fees, staff time, or other expenses related to the application for financing.

(2) Provide financial assistance to reduce the annual fees or premium for a letter of credit, surety bond, insurance policy, or other credit enhancement.

(3) Guarantee to the bond holder, conventional lender or provider of a letter of credit, surety, insurance policy, or other credit enhancement all or a portion of the indebtedness; provided, however, that in no event shall the aggregate amount of such guarantees outstanding at any time with respect to any applicant exceed \$2,000,000.

(4) Provide financial assistance to reduce the interest rate on conventional loans or bonds by not more than two percent (2%).

(b) The Authority shall waive the fees it charges pursuant to Section 8034 for all applicants meeting the conditions contained in Section 8042(b).

(c) The Authority alone is authorized to approve assistance. The commitment to provide assistance shall be valid only when it is included in

a written contract executed by both the Authority and applicant or group of applicants.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 7-3-86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 27).
2. Amendment of subsections (b)(2) and (b)(3), repealer of subsection (c) and subsection relettering, and new subsection (e) filed 4-8-93 as an emergency; operative 4-8-93 (Register 93, No. 15). A Certificate of Compliance must be transmitted to OAL 10-5-93 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4-8-93 order transmitted to OAL 8-10-93 and filed 9-7-93 (Register 93, No. 37).
4. Editorial correction of HISTORY 2 (Register 93, No. 37).
5. Amendment filed 1-31-94 as an emergency; operative 1-31-94 (Register 94, No. 5). A Certificate of Compliance must be transmitted to OAL by 7-30-94, pursuant to Health and Safety Code section 44520, or emergency language will be repealed by operation of law on the following day.
6. Amendment refiled 7-21-94 as an emergency; operative 7-31-94 (Register 94, No. 29). A Certificate of Compliance must be transmitted to OAL by 1-27-95 pursuant to Health and Safety Code section 44520 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 7-21-94 order including new first paragraph, amendment of subsections (a), (a)(1) and (a)(3) and repealer of subsection (d) transmitted to OAL 1-26-95 and filed 3-9-95 (Register 95, No. 10).

§ 8044. Small Business Loans.

In connection with small business loans made in accordance with California Code of Regulations, Title 10, Chapter 6.81 (commencing with Section 4610) adopted by the California Department of Commerce pursuant to California Health and Safety Code Section 44520(b), the Authority acknowledges said regulations and shall undertake to perform its obligations set forth therein. If any inconsistency exists between said regulations and this article, the provisions of said regulations shall apply. In addition, in connection with such small business loans, the following shall apply:

(a) Notwithstanding anything in Section 8043 to the contrary, the Authority shall be authorized to establish the loan guarantee percentage it deems necessary to facilitate the provision of such small business loans.

(b) The Authority shall be authorized to waive fees it charges pursuant to Section 8034 for all applicants approved for such small business loans.

NOTE: Authority cited: Section 44520(b), Health and Safety Code. Reference: Sections 44533(b) and 44548(c), Health and Safety Code; Section 15335, Government Code.

HISTORY

1. New section filed 3-19-92 as an emergency; operative 3-19-92 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 7-17-92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-19-92 order including amendment of first paragraph transmitted to OAL 7-30-92 and filed 9-9-92 (Register 92, No. 37).

Article 5. California Loans for Environmental Assistance Now

§ 8050. Definitions.

The following definitions shall govern construction of Article 5 and Article 6.

(a) "Agency" means a public entity authorized under federal, state or local law to issue an Authorization in connection with Pollution Control Requirements.

(b) "Applicant" means an entity applying for a Loan.

(c) "Application" means the information referred to in Section 8054.

(d) "Assessment Report" means a report prepared by a Coordinator pursuant to Section 8053(c) of these regulations.

(e) "Authority" means the California Pollution Control Financing Authority, organized and existing under and by virtue of Division 27 (commencing with Section 44500) of the California Health and Safety Code.

(f) "Authorization" means a permit, order or other authority to construct or authority to construct and operate a Project.

(g) "Bonds" means any series of bonds, notes or other evidence of indebtedness issued by the Authority, a portion of the proceeds of which are used to fund Loans.

(h) "Borrower" means an Applicant whose Loan has been approved and who has executed a Loan Agreement.

(i) "Contractor" means an entity who has contracted with the Authority to undertake loan packaging, servicing and related activities pursuant to these regulations.

(j) "Coordinator" means an entity which receives and processes applications and disburse funds pursuant to these regulations. The Coordinator for any given Application shall be authorized to be either the Authority's staff or a Contractor, if one or more have contracted with the Authority, that receives the Applicant's complete and signed Application pursuant to Section 8053 of these regulations.

(k) "Eligible Costs" means reasonable and necessary Project costs associated with the following:

(1) Acquisition or construction of the Project, including labor installation and construction costs if such installation and construction are performed by a contractor (as defined in Section 7026 of the California Business and Professions Code) licensed in accordance with Sections 7065 through 7077 of the California Business and Professions Code.

(2) Design, engineering, architectural, consulting, real estate appraisal, legal and other related costs and fees necessary to the Environmental Audit and to the acquisition or construction of the Project.

(3) Preparation costs, including obtaining acquisition or construction cost estimates, preliminary design and engineering work, planning costs and any other expense reasonably required in order to obtain an Authorization.

(4) The Loan fees and Environmental Audit.

(l) "Environmental Assessment" means an assessment of environmental conditions made pursuant to Title 14, Division 11, Article 6, Section 8060 of the California Code of Regulations.

(m) "Environmental Audit" means an investigation into the Applicant's production operations and its compliance with federal, state and local environmental laws, regulations and rulings.

(n) "Hazardous Material" means a hazardous waste, hazardous material, toxic substance, solid waste, water pollutant, air pollutant, air contaminant or related material, including any pesticide or petroleum products, waste, substance, pollutant or contaminant that is or becomes the subject of regulation by any federal, state or local governmental authority or agency with respect to air, water or soil quality.

(o) "Loan" means a loan made in accordance with the procedures set forth in Article 5 and Article 6.

(p) "Loan Agreement" means any agreement for a Loan entered into between a Borrower and the Coordinator.

(q) "Pollution Requirements" means any law, rule or regulation by an agency pertaining to Hazardous Material.

(r) "Project" means the equipment, control technology, production practice or facility for which a Loan is being sought and that is designed to either bring the Applicant into compliance with Pollution Requirements or to reduce Hazardous Material emission or generation.

(s) "Security" means any collateral pursuant to a Loan Agreement. No Loan Agreement shall include the following types of collateral:

(1) Raw land, or land with buildings that will require demolition in order to make use of the property;

(2) Land or buildings contaminated by Hazardous Materials;

(3) Real property located outside California; and

(4) Existing liens on real property exceeding seventy-five percent (75%) of the appraised value. Any appraisal submitted in connection with these regulations shall be no more than six months old at the time of submission.

(t) "Small Business" means that term as defined in Title 4, Division 11, Article 2, Section 8020 of the California Code of Regulations.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New article 5 and section filed 10-11-94; operative 11-10-94 (Register 94, No. 41). For prior history, see Register 94, No. 14.

§ 8051. Eligibility.

An Applicant shall be eligible for a Loan when the Coordinator determines that:

(a) the Applicant is a Small Business that has been operating and engaged in substantially the same activity for a minimum of three (3) years prior to the time the Application is submitted to the Coordinator;

(b) The Applicant demonstrates the ability to repay the Loan from operational cash flow.

(c) Adequate Security exists to secure the Loan on the terms and conditions required by these regulations and agreed to by the Applicant.

(d) The Loan is requested to fund a Project located in California.

(e) The Applicant has an after tax net income in at least two (2) of the last three (3) full years of operation.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8052. Loan Terms.

The terms and conditions of a Loan shall include all of the following:

(a) An interest rate not to exceed one percent (1%) greater than the net interest cost on the Bonds issued in connection with a Loan, or if no bonds are so issued, not to exceed five percent (5%) greater than the interest rate payable at the time of a Loan on moneys in the state's surplus money investment fund. As used in this subsection, "net interest cost" is determined by dividing the total interest payments for the Bonds (reduced by any premium or accrued interest and increased by any discount) by the product of the issue price (which is the par amount of the Bonds less any discount and increased by any premium) and the weighted maturity of the issue (which is the average maturity of the issue weighted to reflect the dollar amount of each particular maturity).

(b) A maximum Loan amount no greater than seven hundred and fifty thousand dollars (\$750,000).

(c) A minimum Loan amount no less than ten thousand dollars (\$10,000).

(d) A Loan term not to exceed eight (8) years; provided that no term shall exceed the final maturity of the Bonds.

(e) The Loan is fully amortized.

(f) A Loan fee of two percent (2%) of the amount of the Loan or five hundred dollars (\$500), whichever is greater, to be paid to the Authority.

(g) Late charges in the event of a default.

(h) Any other provision agreed to by the parties.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8053. Application Availability, Submission and Coordinator Review.

(a) Applications shall be available from the Authority's staff and from any Contractor. Applicants can obtain a list of Contractor(s) or a copy of the Application by contacting the Authority's staff at the following address: California Pollution Control Financing Authority, 915 Capital Mall, Room 466, Sacramento, California, 95814 Attention: CLEAN Program, or by phoning (916) 654-5610. The Application shall contain the information set forth in Section 8054. The Applicant shall submit one (1) complete and signed Application to a Coordinator.

(b) The Coordinator shall review each Application in accordance with Section 8051. If the Coordinator determines that the Application is incomplete, the Coordinator shall provide assistance to the Applicant in completing the Application. No later than sixty (60) days following receipt of a complete Application, the Coordinator shall either:

(1) Notify the Applicant that the Application is ineligible; or

(2) Notify the Applicant that the Application is eligible.

(c) When the Coordinator acts pursuant to (b)(2) of this Section, it shall ensure that the Application is complete, and, shall deliver or mail to the Authority the original Application and an Assessment Report. The Assessment Report shall consist of the following:

(1) Name and address of Applicant and any guarantors of the Loan;

(2) Loan amount;

(3) Description of the Project;

(4) Monthly payment, loan fee and estimated interest rate;

(5) Primary and secondary repayment sources;

(6) Security;

(7) Description of Applicant's business (including location);

(8) Discussions of Applicant's management structure and qualifications;

(9) Financial analysis addressing Applicant's ability to repay the Loan;

(10) Evidence that Applicant is a Small Business;

(11) Discussion of potential environmental risks in connection with the Project; and

(12) Loan conditions and requirements.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8054. Application Content.

An Application shall include all of the following:

(a) The Applicant name, address, telephone number, federal tax identification number, type of business, Standard Industrial Classification Number as set forth in Standard Industrial Classification Manual, 1987, United States Office of Management and Budget, and the date the business was established.

(b) The Applicant owner(s), including the Applicant owner's spouse's name if such spouse is an owner, and guarantor name, if any, with the following information for each such owner and guarantor: business telephone number, home street address, employer's name and address, amount of time at current employment and position held. "Owner" for purposes of this section means any person holding a beneficial interest of ten percent (10%) or more of the stock issued by, or other ownership interest in, the Applicant.

(c) Information regarding the Project for which funding is being requested, including:

(1) A description of the Project including its useful economic life, the estimated construction period, components, costs and whether it is primarily intended to meet pending Pollution Requirements or to reduce Hazardous Material generally.

(2) The Project location.

(3) A copy of the Authorization, if available, and a copy of the application for the Authorization and any other materials submitted to an Agency in connection with the Authorization.

(d) Information the Applicant deems sufficient to demonstrate that the Applicant is able to provide adequate Security and to repay the Loan, including tax returns, history of any insolvency, status of any tax audits or lawsuits and the existence and solvency of any guarantors.

(e) The proposed Loan amount and term.

(f) The Applicant's financial statement for the most recent fiscal year and financial statements for the previous three (3) fiscal years.

(g) A financial certification form (Financial Statement Certification, 3/92 revision) signed by each person or entity furnishing any financial statement. The form consists of the following statement:

"The attached financial statement of the undersigned dated _____ is hereby furnished to you for the purpose of procuring and establishing credit from time to time with you and is to be regarded as a complete and truthful statement of the undersigned's financial condition on the date indicated.

"The undersigned authorizes you (1) to make inquiries about the content of the attached financial statement, including contacting credit re-

porting agencies and (2) to provide credit information about the obligations of the undersigned to credit reporting agencies or in response to other inquiries.

Signed: _____ Date _____."

(h) The signature of Applicant owner(s) to the Application, with the following statement:

"I represent and declare that the information provided in this application is true and a correct statement of my current financial condition. Any existing or threatened litigation, claim or circumstance which might reasonably be expected to affect my condition in the future is fully described below or in an attached statement.

"I will immediately notify you in writing if there is a material change in my financial condition. The absence of such notification shall constitute a new and continuing affirmation of my financial condition as described, upon which you may continue to fully rely.

"I agree that present and future obligations to you are authorized to be made immediately due and payable, at your sole discretion, if (1) I, or any guarantor of any of my obligations, at any time discontinues business, becomes insolvent, enters into bankruptcy or dies, (2) a writ of attachment, garnishment, execution or other similar legal process is issued against my property, (3) any act for the collection of delinquent taxes is taken against me, (4) any representation to you by me or a guarantor of my obligations proves to be misleading or untrue, (5) I fail to notify you of any material change in my financial condition or there is a materially adverse change in my financial condition, including any change in Security, (6) I sell or transfer any interest in my current business, or (7) any other action or condition for which present or further obligations shall be authorized to be made immediately due and payable and that has been agreed to or not objected to by me, occurs or is met.

You are authorized to verify the information contained in this application with any third party.

I understand that my spouse, if any, is not required to be a borrower or a guarantor unless he or she also is an owner of the business.

I have reviewed the above statement and understand the foregoing representations and covenants.

Date _____ Signature _____."

(i) If Security includes real property, a legal description of such property, an appraisal of the property, a preliminary title report and if the property is other than residential, four (4) units or less, a fifty (50)-year recorded document guarantee. The title report must utilize the American Land Title Association ("ALTA") Loan Policy, revision 1987, or the California Land Title Association Standard Coverage Policy, revision 1988, and each must contain ALTA endorsements 100 and 101. The company issuing the title policy and document guarantee must be licensed by the California Department of Insurance to issue insurance in California. If the property is zoned and used as residential for four units or less, the appraiser must be licensed by either the American Institute as a Single Family Real Estate Appraiser or licensed by the California Office of Real Estate Appraisers. All other real property must be appraised by an individual licensed by the American Institute as a Member of the American Institute or certified by the California Office of Real Estate Appraisers.

(j) If Applicant leases the facility where the Project will be located, a copy of the lease for the facility.

(k) If Applicant has subsidiaries or affiliates whose financial statements are not otherwise consolidated with those of the Applicant, a current financial statement from each such subsidiary or affiliate for the most recent fiscal year.

(l) If the Loan amount exceeds two hundred and fifty thousand dollars (\$250,000), Applicant financial projects for the eighteen (18)-month period following Loan approval.

(m) If projected Project costs exceed the requested Loan amount, proposed sources of funding for such additional costs.

(n) A completed Environmental Assessment.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8055. Environmental Audit.

The Coordinator shall be authorized to undertake or cause to be undertaken an Environmental Audit, including an Environmental Assessment, in connection with the Applicant and Applicant facilities where the Project is to be located and any other non-residential real property or other facility to be used as Security. The costs of such Environmental Audit shall be authorized to be paid by the Applicant or in such other manner as is agreed to by the Applicant.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8056. Coordinator Recommendation.

(a) The Coordinator shall prepare a loan summary which shall summarize the Application, Environmental Audit and Assessment Report and shall include a section stating whether the Application is eligible, and list the proposed terms, including proposed Security, and special conditions of the Loan. The summary also shall list the percentage of the Loan which will be used to fund a Project where the Agency is the South Coast Air Quality Management District.

(b) When the Coordinator has received a complete Application, has completed the Assessment Report pursuant to Section 8053(c), has prepared a loan summary pursuant to Section 8056(a), and has received an Environmental Audit described in Section 8055 (if authorized or undertaken by the Coordinator), then the Application File is complete.

(c) Within ten (10) days of when an Applicant's Application File becomes complete as described in Section 8056(b), the Coordinator shall deliver or mail a letter (i) to the Authority and (ii) to the Applicant, stating that either:

(1) The Coordinator determined that the Application was eligible for further Authority review, and that the Application has been forwarded to or is being reviewed by the Authority; or

(2) The Coordinator determined that the Application was ineligible for specified reasons, and that the Applicant can appeal the decision to the Authority, pursuant to Section 8057(b).

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 40448.6, 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8057. Authority Approval.

(a) Upon receipt of a letter from the Coordinator pursuant to Section 8056, the Authority shall be authorized to approve the Application when:

(1) It received the recommendation to that effect from the Coordinator pursuant to Section 8056(c) or when it approves an appeal pursuant to Section 8057(b);

(2) The Environmental Audit supports or does not materially adversely affect the decision to make the Loan; and

(3) Funds are available.

(b) If the Coordinator has determined that an Application is not eligible, the Applicant may appeal by filing a written appeal with the Authority. The appeal must be received by the Authority not later than twenty (20) days from the date stated on the Section 8056(c)(2) letter and must address each of the issues set forth in the letter. The Authority shall review the appeal and deliver to the Coordinator a written decision within thirty (30) days following the Authority's first regularly scheduled meeting following receipt of the appeal. In making its determination, the Authority shall review the written appeal, Application, Environmental Audit, Assessment Report and Coordinator recommendation (which materials shall be supplied to the Authority by the Coordinator). There are no further administrative appeals following this decision.

(c) Where any of the conditions and requirements in subsection (a) have not been met, the Authority shall deny the Loan request and inform the Coordinator with respect to the specific actions, if any, the Applicant must take to reapply.

(d) No later than forty-five (45) days from the date upon which the Coordinator delivers or mails the letter pursuant to Section 8056(c), the Coordinator shall notify the Applicant of the decision, along with any explanation required by subsection (c); provided, however, that in the case of an appeal, the Applicant shall be notified not later than twenty (20)

days following receipt by the Coordinator of the written decision of the Authority made pursuant to Section 8057(b). If the Loan is approved, the notification shall consist of a letter committing the Authority to provide Loan funds so long as the Applicant strictly complies with the terms and conditions contained therein.

[The next page is 266.3.]

(e) The commitment letter described in subsection (d) shall include the following:

- (1) Borrower's and any guarantor's name(s).
- (2) Loan amount and term.
- (3) Interest rate and loan fee.
- (4) Disbursement process, including a statement that Loan proceeds shall be disbursed on a reimbursement basis.
- (5) Proposed Security, together with appropriate method for placing a lien on and insuring same.
- (6) A requirement that the Applicant execute environmental indemnity agreements in favor of the Authority, the State of California, and the Contractor, if any, fully indemnifying against loss or damage due to Hazardous Material. Such indemnity shall not be secured by the deed of trust or other Loan documents.
- (7) Insurance requirements.
- (8) Conditions and covenants.
- (9) Prepayment conditions, if any.
- (10) The date when the commitment expires.

(11) A statement that the Authority, by and through the Coordinator, reserves the right to modify or cancel its commitment upon failure of the Applicant to execute a Loan Agreement that includes all of the terms and conditions set forth in the letter of commitment, or if it becomes aware of any matter which, if known at the time of Loan review or approval, would have resulted in the Application not being approved. Such matters include:

(A) A determination that the Application was prepared incorrectly, contains incorrect information or omits required information.

(B) Business circumstances that would negatively affect the Applicant's ability to rely or collateralize the Loan.

(f) If the Authority approves the Application, the Authority or the Coordinator shall be authorized to enter into a Loan Agreement that embodies the terms specified in the commitment letter described in subsection (e).

(g) If the Authority denies the Application, the Applicant shall have no right to administratively appeal the decision, but may reapply for a Loan at any time.

(h) The Authority shall be authorized to give priority to Applications for Loans for Projects intended to meet Pollution Control Requirements pending or enacted but not yet effective.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

§ 8058. Loan Disbursement.

Following the execution of a Loan Agreement, compliance with all conditions precedent to disbursement contained in the Loan Agreement and the issuance of an Authorization, the Coordinator shall disburse funds as follows:

(a) The Borrower shall sign and submit to the Coordinator invoices from entities providing materials and services for Eligible Costs covered by the Loan Agreement.

(b) Upon receipt of the signed invoice, the Coordinator shall authorize the disbursement of Loan funds to the Borrower.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548(c), Health and Safety Code.

HISTORY

1. New section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

Article 6. Environmental Assessment

§ 8060. Environmental Assessment.

An environmental assessment shall consist of completion of the following form (Revision 3/92):

Applicant:

Applicant's address:

Address of property for which this Environmental Assessment is being completed (property which shall be the security for loans, or if none, property where the project will be located) (the "Subject Property"):

List the street address, use & ownership interest in any other property owned by Applicant (e.g. 100 Main Street, Los Angeles, 3 year rental as warehouse space):

Name(s) of Individual(s) completing this questionnaire, their position(s) with the Applicant, the responsibilities and duties in this position(s), and their tenure with Applicant:

The following questions are necessary to provide the California Pollution Control Financing Authority (the "Authority"), its staff, and/or any entities contracting with the Authority in connection herewith (the "Coordinator") with information concerning the environmental condition of the Subject Property. The Authority or the Coordinator will require the person(s) completing this statement to certify that the statement is true and constitutes an accurate account of all known environmental matters related to the Subject Property and its vicinity. The Authority or the Coordinator will rely on these answers as knowing representations of the Subject Property's condition.

The questions should be answered by one or more persons who are most knowledgeable about the Subject Property. Such persons will be expected to conduct a "reasonable inquiry." The term "reasonable inquiry" shall include a thorough examination of the Subject Property and all property records in the Applicant's possession or reasonably available to the Applicant, as well as all matters into which Applicant has inquired for any purpose, or has had the right or duty to inquire into, supervise or monitor. "Reasonable inquiry" shall not require an environmental audit or the hiring of a consultant to respond to these questions or a title search of County property records.

The Authority or the Coordinator may conduct an independent investigation of the answers supplied in this statement at the Applicant's expense. If such an investigation reveals problem areas not disclosed in this statement, the loan decision may be delayed.

The Authority's or the Coordinator's provision of or reliance on this statement shall not constitute a commitment to lend funds, nor shall it limit the Authority's or the Coordinator's right to conduct a site investigation at the Applicant's expense prior to issuing a loan commitment.

The Applicant should disclose all known existing or potential environmental issues when answering the following questions. The Authority or the Coordinator is aware that businesses which will apply for the loan program generate Hazardous Material. When fully disclosed, the existence of Hazardous Material on the Subject Property will not necessarily result in an automatic loan denial. The Authority or the Coordinator, in its sole discretion, shall consider other factors as listed in the regulations when determining whether the proposed loan meets the program's goals and the Authority's or the Coordinator's acceptable liability risk.

Exhibit A contains definitions of the terms used in this statement which will aid the Applicant in determining the scope of each question.

If insufficient space is provided for your response, provide an attachment to the questionnaire and label the attachment with the number of the question you are continuing to answer.

A. SCOPE OF APPLICANT'S "REASONABLE INQUIRY"

1. Have you conducted an investigation of the Subject Property, including any records or employees' knowledge concerning the Subject Property in preparing your responses to these questions?

Yes
No

If yes, state how this inquiry was conducted and what issues and sources were examined:

B. PROPERTY INFORMATION

1. Current and Former Owners of and Uses on the Subject Property and Vicinity:

(a) Give the name of the present owner and state the current use of the Subject Property:

Year acquired:

(b) Do you know who has owned the Subject Property prior to the current owner?

Yes
No

If "yes," state the names of all such former owners, the approximate dates of their ownership and their uses of the Subject Property (note especially any manufacturing or industrial uses, and any uses which required the use, storage, or disposal of Hazardous Material):

(c) Are there or have there been tenants or easement holders on the Subject Property?

Yes
No
Do not know

If yes, state the names of present and former tenants, easement holders, etc. and their uses of the Subject Property (note especially any manufacturing or industrial uses, and any uses which required the use, storage, or disposal of Hazardous Material):

(d) Are there or have there been any manufacturing or industrial activities or any activities involving the use, storage, or disposal of Hazardous Material, pesticides or petroleum products within 1500 feet from the borders of the Subject Property?

Yes
No
Do not know

If yes, please describe:

(e) What is the current zoning for the Subject Property?

(f) Do you know any prior zonings of the Subject Property?

Yes
No

If yes, please list the prior zonings and the dates each such zoning was in effect.

(g) Are you aware of any previous environmental assessments, audits or inspections of the Subject Property by any government entity, consultant or other party?

Yes
No

If yes, please describe and attach as Attachment A any reports, studies, plans or other documents related thereto.

2. Current or Proposed Use of Subject Property

(a) Please describe all current and proposed activities which Applicant intends to conduct on the Subject Property:

(b) Is Hazardous Material handled, used, stored, manufactured, treated, released or disposed of in the course of these activities?

Yes
No

If yes, specify for each substance how it is used, stored, manufactured or treated (as applicable), and in what approximate quantity. Attach as Attachment B a list of such substances, copies of all applicable permits, safety data sheets, and copies of Hazardous Material manifests.

(c) Does the activity on the Subject Property require equipment cleaning or degreasing or removal of residues of Hazardous Material from equipment?

Yes
No

If yes, list the substances and wastes, and describe how the substances and wastes of this cleaning or removal process are disposed of?

(d) Please briefly describe the process flow of Applicant's operations at the Subject Property (e.g. raw materials unloaded at rear loading dock, formed into widgets inside the main building, finished widgets transported off site by trucks at front loading dock, raw material scrap stored in bins & picked up by trucks transporting materials to recycling center). Identify all points at which Hazardous Material is handled, accumulated, stored, treated, transferred, released or disposed of. Attach as Attachment C a process flow diagram.

3. Physical Description of Property

(a) Please describe all structures on the Subject Property (including approximate age) and attach as Attachment D a facility map:

(b) Are there, or have there been any tanks, sumps, ponds, lagoons and other containments (whether under or above ground, inside or outside of any structure) on the Subject Property?

Yes
No

If yes, please attach as Attachment E a list describing such containments (including their size, age, and location) and, where possible, list all substances known to be (or have been) stored or deposited therein.

(c) How and how often are these containers and storage areas checked for leaks or spills? For those containments no longer in use, describe how the containment was closed and attach as Attachment E all supporting documentation.

(d) Have any barrels, cans, bags or other containers which have at any time contained Hazardous Material (whether empty or not) been stored or discarded on the Subject Property (whether outside, buried or within a structure)?

Yes
No
Do not know

If yes, please describe and list methods and location of storage and disposal:

(e) Are there any refuse, storage or other disposal areas on the Subject Property?

Yes
No

If yes, please describe and locate on the Attachment D facilities map such facilities and describe the procedures for storage, collection, and disposal of refuse utilized at the facility:

(f) How are empty containers and other garbage from activities on the Subject Property disposed of?

(g) Do any of the structures, paved areas and other work areas contain floor drains or other direct connections to drainage areas, sump, septic systems, or public sewer facilities?

Yes
No

If yes, please describe the drainage system, and the manner in which it is currently used in the Applicant's operation:

4. Building Materials & Components

(a) Were any of the structures on the Subject Property constructed, remodeled, or renovated between the years of 1920 and 1980?

Yes
No

If yes, please describe the construction, remodeling or renovation:

(b) Do any of the structures or improvements on the Subject Property contain asbestos materials (whether incorporated in structures or stored

on site) such as ceiling tiles, flooring, insulation, furnace protection, fireproofing materials, duct tape, etc.?

Yes
No
Do not know

If yes, please describe (including age, condition and location):

(c) Has an asbestos expert or industrial hygienist inspected the Subject Property?

Yes
No

If yes, attach the report as Attachment G.

(d) Are there any transformers, capacitors or other electrical equipment in use or stored on site?

Yes
No
Do not know

If yes, please list:

C. Regulatory Information & History

1. Are there any permits or variances required for the waste or wastewater discharge arising from the current or proposed activities on the Subject Property?

Yes
No
Do not know

If "yes" please list permit or variance number, agency, date of issuance, date of expiration, if any, and attach a copy as Attachment H:

2. Are there any permits or variances necessary for the air emissions caused by current or proposed activities on the Subject Property?

Yes
No
Do not know

If yes, please give permit number, agency and date of issuance, date of expiration, if any, and attach a copy as Attachment I:

3. Are there any permits or variances necessary for underground tanks, sumps or other containments on the Subject Property?

Yes
No
Do not know

If yes, please list permit or variance number, agency and date of issuance, date of expiration, if any, and attach a copy as Attachment J:

4. Are any permits or variances necessary for Hazardous Material treatment, storage or disposal activities undertaken at the Subject Property?

Yes
No
Do not know

If yes, please list permit number, agency and date of issuance, date of ex-

piration, if any, and attach a copy as Attachment K:

5. Are any other permits or variances necessary relative to the use, storage, handling, transportation or disposal of chemicals or other substances on the Subject Property?

Yes

No

Do not know

If yes, please list permit number(s), agency(ies) and date(s) of issuance, date of expiration, if any, and attach a copy as Attachment L:

6. Has any government agency issued any letter, notice or verbal communication indicating that it intended to investigate or seek information concerning environmental matters relating to the Subject Property?

Yes

No

Do not know

If yes, please specify and attach a copy as Attachment M:

7. Has any Hazardous Material ever been spilled, deposited, leaked, leached, disposed of or otherwise placed on or in the Subject Property?

Yes

No

If yes, please specify, and detail response and cleanup activities undertaken including any governmental agencies contacted, and attach as Attachment N copies of any reports, studies, plans or other documents generated:

8. Is the Subject Property or any activity conducted thereon in violation of or subject to penalty under any law, ordinance, rule or regulation relating to Hazardous Material, or the protection of the environment?

Yes

No

If yes, please specify and explain:

9. Has the Subject Property been designated, listed or identified in any manner by the United States Environmental Protection Agency (the "EPA") or any other governmental agency as a Hazardous Material disposal or removal site, superfund or cleanup site or candidate for removal or closure pursuant to any federal, state, or local law?

Yes

No

If yes, please describe:

Attach as Attachment O copies of any warnings, citations, notices of violation, enforcement actions and administrative and judicial complaints or

orders, and correspondence related to any Hazardous Material or environmental law or regulation.

10. Are you aware of any litigation or threatened litigation pertaining to the Subject Property?

Yes

No

If yes, please describe and attach as Attachment P a copy of any pleading:

E. Applicant Information:

For each Applicant, and each enterprise involved in operations on the Subject Property, list the following:

1. EPA identification numbers:

2. Ongoing or threatened environmental cleanup activities for which the Applicant is or may be subject to lawsuit, demand, liability, or responsibility for the conduct of cleanup or payment of cleanup costs:

(c) List all related businesses of the Applicant. As used herein, the term "related" means that the Applicant owns 51% of another business, or another business owns 51% of the Applicant.

As the present owner of the Subject Property or an interest therein, or as an officer or as a general partner of the present owner of the Subject Property (or the duly authorized representative of such owner), the undersigned, and each of them, individually certifies that he or she is familiar with the Subject Property and with all of the operations presently conducted on the Subject Property, has made a reasonable inquiry into the present and former uses and activities conducted on the Subject Property, the present and former uses and activities conducted within the vicinity of that property, and all other matters relevant to a full disclosure of all environmental concerns and issues relative to the Subject Property, and that, to the best of the knowledge, information and belief of the undersigned, the information disclosed above is complete, true and correct. The undersigned acknowledges that the Coordinator intends to rely upon the disclosure made above or attached hereto in determining whether and on what terms it will make a loan to Applicant.

APPLICANT

By: _____

Title: _____

Date Signed: _____

Exhibit A

1. The term "Hazardous Material" shall have the meaning ascribed thereto to Title 10, Chapter 6.81, Section 8050(m) of the California Code of Regulations.

2. The term "permit" shall include any permit, registration, certification or other filing or action which must be obtained from, or filed with any government agency, or is otherwise required in order for the applicant for a loan to conduct operations, or own or operate any equipment or facility.

Exhibit B

The assessment asks for several attachments. Please clearly identify all attachments, and circle the below letters which correspond to the attachments enclosed. The descriptions are merely for reference, the full description of materials to be attached is listed in the assessment itself.

Attachment	Assessment #	Description
A	B.1.(g)	Previous environmental assessments
B	B.2.(b)	List of hazardous substances
C	B.2.(d)	Process flow diagram
D	B.3.(a)	Facility map
E	B.3.(b)	Containment list
F	B.3.(c)	Closed containment documentation
G	B.4.(c)	Asbestos reports
H	C.1.	Waste or wastewater discharge permits
I	C.2.	Air emission permits
J	C.3.	Underground tank permits
K	C.4.	Hazardous waste permits
L	C.5.	Chemical permits
M	C.6.	Government Agency environmental correspondence
N	C.7.	Release onto Subject Property
O	C.9.	Government listing of Subject Property
P	C.10.	Litigation

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44533(b) and 44548, Health and Safety Code.

HISTORY

1. New article 6 and section filed 10-11-94; operative 11-10-94 (Register 94, No. 41).

Article 7. Capital Access Program for Small Businesses

§ 8070. Definitions.

In addition to the definitions in Section 8020, the following terms shall have the following definitions, unless the context requires otherwise:

(a) "Borrower" means a Qualified Business which obtains a Qualified Loan from a Participating Financial Institution.

(b) "Early Stage Loan" means each of the first \$500,000 of Qualified Loan made by a Participating Financial Institution.

(c) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority, or his or her designee from time to time.

(d) "Fees" means a non-refundable fee, agreed to by the Participating Financial Institution and the Borrower, of no less than 2 percent and no more than 3-1/2 percent of the principal amount of the Qualified Loan which the Borrower shall be required to pay to the Participating Financial Institution for deposit in the Loss Reserve Account, together with an equal, matching amount which the Participating Financial Institution shall deposit in the Loss Reserve Account. The Borrower's share of the Fees may be paid from loan proceeds or in accordance with subdivision (f) of this section and Section 8078.

(e)(1) "Financial Institution" means a federal or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of the foregoing entities. A consortium of such entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(2) "Financial Institution" also includes a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter 1 of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter 1 of Title 13 of the Code of Federal Regulations, and a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter 1 of Title 13 of the Code of Federal Regulations.

(3) A financial institution described in paragraph (1) shall have at least one office in the State of California.

(4) A financial institution described in paragraph (2) shall be domiciled or have its principal office in the State of California.

(f) "Independent Contributor" means any individual, company, corporation, institution, foundation, utility, government agency or other entity, including any consortium of these persons or entities, whether public or private (but excluding any Borrower), that, pursuant to the provisions of this Article, pays to a Loss Reserve Account the Matching Contribution and/or Fees payable by the Borrower and/or the Financial Institution.

(g) "Individual" means a natural person, together, if applicable, with any of his or her spouse, parents, siblings or children or the parents or spouse of any of them.

(h) "Law" means Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the California Health and Safety Code, as amended from time to time.

(i) "Loss Reserve Account" means an account held by a Program Trustee or by any Participating Financial Institution that is established and maintained by the Authority for the benefit of a Participating Financial Institution for the purposes set forth in Section 8073.

(j) "Matching Contribution" means a contribution to a Loss Reserve Account as set forth in Health and Safety Code Section 44559.4(d)(1).

(k) "Money Market Fund" means an open-ended management investment company regulated under the Investment Company Act of 1940, as amended, which values its securities pursuant to Section 270.2a-7 of Title 17 of the Code of Federal Regulations.

(l) "Participating Financial Institution" means a Financial Institution that has been approved by the Authority to enroll Qualified Loans in the Program and has agreed to all terms and conditions set forth in the Law and this Article and as may be required by any applicable federal law providing matching funding.

(m) "Passive Real Estate Ownership" means ownership of real estate for the purpose of deriving income from speculation, trade or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

For purposes of clause (1) above, the Borrower must be using or planning to use upon acquisition or construction of a building, at least 51 percent of the space in an existing building or at least 67 percent of the space in a newly constructed building. The requirements of clause (1) above will be deemed to be satisfied when a Participating Financial Institution makes a Qualified Loan to an Individual, or to a partnership or trust wholly owned or controlled by one or more Individuals, for the purpose of financing property that will be leased to a Qualified Business that is wholly owned by those same Individuals, and in such case the Qualified Loan will be deemed to be made also to such Qualified Business.

(n) "Primary business location in California" means that a business will be deemed to be located in California if either:

(1) a majority of the employees of the business are located in California; or

(2) the Executive Director determines that the Primary business location is in California by finding that the average of the "Payroll Factor" as defined in Revenue and Taxation Code Section 25132, the "Income Factor" as defined in Revenue and Taxation Code Section 25128, and the "Sales Factor" as defined in Revenue and Taxation Code Section 25134 is greater than 50 percent.

(o) "Primary economic effect in California" means, as applied to a business activity, that either of the following conditions exists:

(1) At least 51 percent of the total revenues of the business activity are generated in California; or

(2) At least 51 percent of the total jobs of the business activity are created or retained in California.

(p) "Program" means the Capital Access Loan Program for Small Businesses established pursuant to the Law.

(q) "Program Trustee" means a bank or trust company, or the State Treasurer, chosen by the Authority from time to time to hold or administer some or all of the Loss Reserve Accounts.

(r) "Qualified Business" means a Small Business Concern that meets both of the following criteria:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in California.

(2) It has its Primary business location in California.

(s) "Qualified Loan" means a loan or a portion of a loan made by a Participating Financial Institution to a Qualified Business for any business activity that has its Primary economic effect in California. A Qualified Loan may be made in the form of a line of credit, in which case the Participating Financial Institution shall specify the amount of the line of credit to be covered under the Program, which may be equal to the maximum commitment under the line of credit or an amount that is less than the maximum commitment. "Qualified Loan" does not include any of the following:

(1) A loan for the construction or purchase of residential housing.

(2) A loan to finance Passive Real Estate Ownership.

(3) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance.

(4) A loan, the proceeds of which will be used

(A) to provide any of the following facilities: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, racetrack, airplane, skybox (or other private luxury box), health club facility, facility primarily used for gambling or to facilitate gambling, or store whose principal business is the sale of alcoholic beverages for consumption off premises, a store or other facility whose principal business is the sale of firearms, a store or other facility whose principal business is the manufacture or sale of tobacco or tobacco products, any religious facility or organization, escort service, nudist camp, gun club, shooting range or gallery; or

(B) in any manner that could cause the interest on any bonds previously issued by the Authority to become subject to federal income tax, as specified in writing to all Participating Financial Institutions by the Executive Director.

(5) any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program.

(t) "Severely Affected Community" means any area classified as an enterprise zone pursuant to the Enterprise Zone Act, Chapter 12.8 (commencing at Section 7070) of Division 7 of Title 1 of the California Government Code; any area, as designated by the Executive Director, contiguous to the boundaries of a military base designated for closure pursuant to Public Law 101-150, as amended; and any other comparable economically distressed geographic area so designated by the Executive Director from time to time.

(u) "Small Business Assistance Fund" means a fund of that name created by the Authority.

(v) "Small Business Concern" means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and that, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

(w) "Standards" means the criteria, limited to geographical area and/or type of business, to be used by an Independent Contributor in selecting businesses to assist through the Program.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Sections 44559.1, 44559.2, 44559.3, 44559.4, 44559.5 and 44559.7, Division 27, Health and Safety Code.

HISTORY

1. New article 7 and section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-21-94 order including amendment of subsections (n)(3) and (p) and NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).

3. Amendment of subsections (d) and (e), new subsections (f) and (g) and subsection relettering, amendment of newly designated subsection (i), new subsections (j)-(k)(2) and subsection relettering, amendment of newly designated subsections (l) and (m)(2), repealer of former subsections (m)(3)-(m)(3)(B), amendment of newly designated subsections (t)-(v), new subsection (w), and amendment of NOTE filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 2-6-96 order, including amendment of subsection (d), new subsection (k), subsection relettering, and amendment of newly designated subsection (r), transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).

5. Amendment of subsections (d), (f) and (l)(1) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

6. Amendment of subsections (e), (t) and (t)(4)(A) filed 2-24-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 2-24-2000 (Register 2000, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-22-2000 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 2-24-2000 order transmitted to OAL 8-21-2000 and filed 10-2-2000 (Register 2000, No. 40).

8. Repealer of subsections (l)-(l)(2), subsection relettering and amendment of newly designated subsection (s)(4)(A) filed 12-18-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 1-1-2001 (Register 2000, No. 51). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 or emergency language will be repealed by operation of law on the following day.

9. Certificate of Compliance as to 12-18-2000 order transmitted to OAL 6-14-2001 and filed 7-26-2001 (Register 2001, No. 30).

10. Change without regulatory effect redesignating former section (e) as new subsection (e)(1) and adding subsections (e)(2)-(3) filed 10-29-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 44).

11. Amendment of subsection (d) filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.

12. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).

13. New subsection (e)(3), subsection renumbering, amendment of subsection (f), new subsection (s)(5) and amendment of subsection (v) filed 1-22-2008 as an emergency; operative 1-22-2008 (Register 2008, No. 4). A Certificate of Compliance must be transmitted to OAL by 7-21-2008 or emergency language will be repealed by operation of law on the following day.

14. Certificate of Compliance as to 1-22-2008 order, including amendment of subsection (j) and repealer of subsections (j)(A)-(j)(B)(2), transmitted to OAL 5-30-2008 and filed 7-14-2008 (Register 2008, No. 29).

§ 8071. Application by Financial Institution.

(a) A Financial Institution seeking to participate in the Program will complete a registration application provided by the Authority.

The application shall include the following information:

(1) name of applicant Financial Institution.

(2) name, address and telephone number of contact person.

(3) combined capital and surplus as of the end of the Financial Institution's most recent fiscal year.

(4) number of lending branches.

(5) certification that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program, and the name of that body.

(6) a full description of the board of directors, including number, race, ethnicity and gender of its members.

(7) the Financial Institution's rating from a nationally recognized credit rating agency which assesses the financial soundness and stability of financial institutions.

(8) the Financial Institution's agreement to follow the Program's procedures as set forth in the Law and this Article.

(9) the Financial Institution's agreement to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such

other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.

(10) acknowledgment by the Financial Institution that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.

(b) Upon receipt of a completed application, the Executive Director will within 10 days review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Participating Financial Institution. The Executive Director's decision whether an application is sufficient shall be final.

(c) A Participating Financial Institution shall be authorized to request the Authority to establish two or more Loss Reserve Accounts for such institution, so that the institution shall be able to allocate any Qualified Loan enrolled under Section 8072 to whichever Loss Reserve Account it designates. In such case, the definition of Early Stage Loan and Section 8074(f) shall be applied in the aggregate to all the Loss Reserve Accounts for each Participating Financial Institution.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).
3. Amendment of subsections (a)(2), (a)(5) and (b) filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-6-96 order transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
5. Amendment of subsection (a)(9) filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).

§ 8072. Loan Enrollment.

(a) The terms and conditions of Qualified Loans, including interest rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 10 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower, or from an Independent Contributor on behalf of the Borrower and/or the Authority, in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held by either the Participating Financial Institution or the Program Trustee.

(c) The notification to the Authority shall include at least the following information:

(1) Name, D/B/A (if any), address, telephone and fax number of the Borrower.

(2) Brief description of the Borrower's business and either the SIC Code(s) or the NAICS Code(s) applicable to such business.

(3) Brief description of the Borrower's regular activities and the amount of its annual revenues.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan.

(5) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled).

(6) Type of the Qualified Loan (e.g., line of credit, term loan, equipment loan).

(7) Date of the Qualified Loan.

(8) Interest rate applicable to the Qualified Loan.

(9) Term of the Qualified Loan.

(10) Geographic location of the Qualified Business and the location of the facilities being financed if different.

(11) Whether the Qualified Business or the location of the facilities being financed is in a Severely Affected Community.

(12) Whether the loan is secured.

(13) Whether the loan is a refinancing, and if so, whether the prior loan was enrolled under the Program, and whether the amount of the loan was increased as part of the refinancing.

(14) Agreed amount of the Fees payable by each of the Borrower and the Participating Financial Institution.

(15) Whether any portion of the Fees payable by the Borrower or the Matching Contribution was or is to be paid by an Independent Contributor; the identity of such Independent Contributor; and a certification that the Independent Contributor has approved the use of its funds to pay such Fees or Matching Contribution in connection with the Qualified Loan.

(16) Number of persons currently employed by the Borrower, and number of jobs expected to be created, retained or affected by the Qualified Loan.

(17) Certification that the loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.

(18) Certification that the Qualified Loan is for a business activity that has its Primary economic effect in California.

(19) Certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.

(20) Certification that the Participating Financial Institution has obtained a written representation from the Borrower that it has no legal, beneficial or equitable interest in the Fees or the Matching Contribution.

(21) Certification that the aggregate principal amount of the loan, together with all other Qualified Loans made by any Participating Financial Institution under the Program to the Borrower over the last three years (including all related entities among which a common enterprise exists), does not exceed \$1,500,000.

(22) Certification that the Participating Financial Institution has notified the Borrower if the Participating Financial Institution's share of the Fees for the Qualified Loan have been paid from loan proceeds.

(23) Acknowledgment that the lending activities of the Participating Financial Institution are subject to safety and soundness standards as set forth in applicable federal banking regulations.

The Participating Financial Institution shall be authorized to base the information requested by subsections (4), (16), (17), (18) and (21) above upon representations made to it by the Borrower; provided that no such Borrower representation may be relied upon if it is known to be false by the lending officer(s) at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.

(24) Certification that the Participating Financial Institution has obtained a written representation from the Borrower that it has secured or made application for all applicable licenses or permits needed to conduct business.

(25) Certification from the Participating Financial Institution that it has not, and will not, enroll the same loan or portion thereof in any other government program substantially similar to the Program.

(26) Certification that the Borrower does not meet the Participating Financial Institution's normal underwriting criteria for making loans of the type sought to be enrolled and that without enrollment, the Participating Financial Institution would not make a loan.

(d) If a Borrower seeking a loan from a Participating Financial Institution has less than a majority of its employees in California, the Participat-

ing Financial Institution shall be authorized to submit information to, and seek a determination from, the Executive Director that such Borrower has its Primary business location in California. Such determination shall be made by the Executive Director within 10 days of receipt of a written request from a Participating Financial Institution containing information about the business activities of the proposed Borrower.

(e) If a Borrower seeking a Qualified Loan from a Participating Financial Institution is an employee, member, director, officer, principle shareholder, or affiliate of the Participating Financial Institution, the terms and the conditions of the Qualified Loan and the internal procedures used to approve the Qualified Loan must comply with the following requirements:

(1) If the Participating Financial Institution is a federal-chartered bank, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 371c, 371c-1, 375a, and 375b of the Title 12 of the United States Code, and Sections 215.4 of Title 12 of the Code of Federal Regulations.

(2) If the Participating Financial Institution is a state-chartered bank, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 3370 et seq. of the Financial Code, and Sections 10.19300 to 10.19302 of Title 10 of the California Code of Regulations.

(3) If the Participating Financial Institution is a federal-chartered savings association, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Section 1468 of Title 12 of the United States Code.

(4) If the Participating Financial Institution is a state-chartered savings association, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Sections 6503 and 6529 of the Financial Code.

(5) If the Participating Financial Institution is a federal-chartered credit union, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1757 and 1761c of Title 12 of the United States Code and Section 701.21(d) of Title 12 of the Code of Federal Regulations.

(6) If the Participating Financial Institution is a state-chartered credit union, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 15050 of the Financial Code.

(7) If the Participating Financial Institution is a not-for-profit certified community development financial institution (CDFI), the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1805.807 of Title 12 of the Code of Federal Regulations.

(8) If the Participating Financial Institution is a lending institution as described in Section 44559.1(d)(2) of the Health and Safety Code, the Qualified Loan must be made in accordance with all applicable federal laws that regulate conflicts of interests and insider transactions and Section 120.140 of Title 13 of the Code of Federal Regulations.

(9) The Participating Financial Institution shall pre-qualify with the Authority any qualified loan with a principal amount of \$500,000 or more.

(f) The Authority shall, upon receipt of documentation and Fees from the Participating Financial Institution, enroll the Qualified Loan if the Executive Director determines that the Qualified Loan meets the requirements of the Law and this Article. The Executive Director shall notify the Participating Financial Institution of enrollment within 10 business days after receipt by the Authority of all documentation and Fees required by the Law and/or this Article. The Executive Director's determination whether a loan shall be enrolled in the Program shall be final. The Executive Director shall be authorized to review an application for enrollment submitted by a Participating Financial Institution in advance of the making of the loan, and notify the institution whether such loan meets the requirements of the Law and this Article.

(g) Upon enrollment of a Qualified Loan, the Matching Contribution shall be transferred for deposit in the Loss Reserve Account (1) by the Authority or (2) by an Independent Contributor, and the Program Trustee shall notify the Participating Financial Institution of the transfer and of the source of funds from which the transfer was made.

(h) The Participating Financial Institution shall notify the Authority within 60 days after any extension or renewal of any enrolled loan which does not increase the loan amount. If the amount is increased, a new loan enrollment form shall be submitted within such time, and Fees shall be transmitted or deposited pursuant to Section 8072(b)(2) based on the increased amount.

(i) The Participating Financial Institution shall notify the Authority of the work-out status on Qualified Loans for which extension/renewal or charge off status is not yet clear. The "Notification of Work-Out Status" form provided by the Authority shall be used to notify the Authority. The Participating Financial Institution shall have up to 240 days from such initial notification to inform the Authority of re-enrollment or charge off.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Sections 44559.2 and 44559.4, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of subsection (c)(20), new subsections (g) and (h) and amendment of NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).
3. Amendment of subsections (b)(1), (b)(2) and (c)(2), new subsections (c)(3) and (c)(4) and subsection renumbering, amendment of newly designated subsection (c)(6), new subsections (c)(8) and (c)(9), amendment of newly designated subsections (c)(11) and (c)(14), new subsection (c)(15), amendment of newly designated subsections (c)(16), (c)(17), (c)(19) and (c)(22), amendment of subsections (d) and (e), new subsection (f) and subsection relettering, and amendment of newly designated subsections (g) and (h) filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-6-96 order, including amendment of subsections (c)(4), (c)(15), (c)(17) and (c)(22), and new subsections (c)(23)-(24), transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
5. Amendment of subsections (a), (b)(2), (c)(2), (c)(3), (c)(15), (c)(19), (c)(22), (d), (e), (h) and (i) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).
6. Amendment of subsections (c)(1)-(3), (c)(19) and (c)(21) filed 2-24-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 2-24-2000 (Register 2000, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-22-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2-24-2000 order transmitted to OAL 8-21-2000 and filed 10-2-2000 (Register 2000, No. 40).
8. Repealer of subsection (c)(19), subsection renumbering, amendment of newly designated subsection (c)(23) and subsection (d), repealer of subsection (f), subsection relettering and amendment of NOTE filed 12-18-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 1-1-2001 (Register 2001, No. 51). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 12-18-2000 order transmitted to OAL 6-14-2001 and filed 7-26-2001 (Register 2001, No. 30).
10. Amendment of subsections (b)(1) and (g) filed 8-8-2002 as an emergency pursuant to Health and Safety Code section 44520(b); operative 8-8-2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 8-8-2002 order transmitted to OAL 2-3-2003 and filed 3-6-2003 (Register 2003, No. 10).
12. Amendment of subsection (c)(2), new subsections (e)-(e)(8) and subsection relettering filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).
14. Amendment of subsections (b)(1), (b)(21) and (b)(23) and new subsections (b)(24)-(26) and (e)(9) filed 1-22-2008 as an emergency; operative 1-22-2008

(Register 2008, No. 4). A Certificate of Compliance must be transmitted to OAL by 7-21-2008 or emergency language will be repealed by operation of law on the following day.

15. Certificate of Compliance as to 1-22-2008 order, including amendment of subsection (f), transmitted to OAL 5-30-2008 and filed 7-14-2008 (Register 2008, No. 29).

§ 8073. Loss Reserve Accounts.

(a) Upon the Executive Director's acceptance of an application under Section 8071, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution for the following purposes:

- (1) to receive all Fees deposited by the Participating Financial Institution, Borrowers and/or Independent Contributors;
- (2) to receive Matching Contributions deposited by the Authority and/or Independent Contributors; and
- (3) to pay claims in accordance with Section 8074.

(b) The Loss Reserve Account shall, in the Authority's sole determination, be held by the Participating Financial Institution or by a Program Trustee.

(c) Any Loss Reserve Account held in a Participating Financial Institution shall be an interest-bearing demand account or deposit account at a banking institution, or a Money Market Fund approved by the Executive Director, or a combination thereof, and earning a rate of interest that would be expected of accounts of similar type and size. The Loss Reserve Account shall be insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Securities Investor Protection Corporation, as appropriate, to the extent permitted by law. The Authority shall not deposit any Loss Reserve Account with a Participating Financial Institution if:

- (1) there are any charges by the Participating Financial Institution for the establishment or maintenance of the Loss Reserve Account at such Financial Institution; or

(2) at the time the Loss Reserve Account is established with the Participating Financial Institution, it has a rating below "75" from IDC Financial Publishing Inc.'s Bank Financial Quarterly, S&L-Savings Bank Financial Quarterly, or Credit Union Financial Profiles, or it has a rating below "11" from Highline Inc.'s Bank Quarterly or S&L Quarterly or successor publication approved by the Executive Director.

(d) All moneys in a Loss Reserve Account are property of the Authority (subject to the Participating Financial Institution's right to receive a portion of the remaining balance in the Loss Reserve Account upon its withdrawal from the Program pursuant to Section 8076 and subject to subsection (e) below). Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw moneys from the Loss Reserve Account to offset administrative costs associated with the Program, provided that the Executive Director shall not be authorized to withdraw more than 50 percent of all interest or income credited to the Loss Reserve Account. The Executive Director shall be authorized to return to a Participating Financial Institution any fees improperly deposited in a Loss Reserve Account.

(e) Notwithstanding any other provision of this article, the Executive Director shall be authorized, with the approval of the applicable Participating Financial Institution, to assign, transfer, pledge or create security interests in all or a portion of any Loss Reserve Account to any other entity or entities (including a trustee of a securitization trust or trusts) in connection with the securitization of all or a portion of the Participating Financial Institution's loans enrolled in the Program.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Sections 44559.3 and 44559.8, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of subsections (a) and (d) and NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).
3. Amendment of subsections (a)(1) and (2), (b) and (d) filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96

(Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 2-6-96 order, including amendment of subsections (c)-(c)(1), transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
5. Amendment of subsections (c) and (d) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).
6. Amendment of subsection (d), new subsection (e) and amendment of NOTE filed 2-24-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 2-24-2000 (Register 2000, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-22-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2-24-2000 order transmitted to OAL 8-21-2000 and filed 10-2-2000 (Register 2000, No. 40).
8. Amendment of subsection (c) filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).
10. Amendment of subsections (c) and (c)(2) filed 1-22-2008 as an emergency; operative 1-22-2008 (Register 2008, No. 4). A Certificate of Compliance must be transmitted to OAL by 7-21-2008 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 1-22-2008 order transmitted to OAL 5-30-2008 and filed 7-14-2008 (Register 2008, No. 29).

§ 8074. Claim for Reimbursement.

(a) A Participating Financial Institution shall notify the Authority within 30 days after it has charged off all or part of a Qualified Loan as a result of a default by the Borrower.

(b) A Participating Financial Institution shall be authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or to realization on personal or other financial guarantees or from other sources. A Participating Financial Institution may also defer, for a period not to exceed 180 days from the date of the charge off, at its sole discretion, making a claim for reimbursement, but still must inform the Authority of charge off status within 30 days.

(c) The Authority shall pay claims within 30 days of receipt of a completed claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the representations and warranties provided by the Participating Financial Institution pursuant to Section 8072 at the time of enrolling the Qualified Loan were false. The Authority shall be authorized, upon providing written notice to the Participating Financial Institution, to defer payment of claims up to an additional 30 days if the Authority requires more information in order to determine if the claim shall be paid.

(d) To make a claim, the Participating Financial Institution shall submit a claim form to the Authority which shall include the following information:

- (1) Name and number of the Participating Financial Institution.
- (2) Name, address and telephone number of contact person.
- (3) Name of the business receiving the defaulted Qualified Loan.
- (4) Amount and date of the Qualified Loan and the Authority's loan number.
- (5) Date of default.
- (6) Amount of default.
- (7) Amount of claim and breakdown of components of the claim between principal, interest, and reasonable out-of-pocket expenses of collection or preservation of collateral, accompanied by documentation of such expenses.

(8) Certification that notice was filed with the Authority as required by Section 8074(a) above within 30 days of the date the Participating Financial Institution charged the Qualified Loan off on its books, and certification that such charge off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.

(9) Statement whether the loan is secured, and whether the Participating Financial Institution has commenced enforcement proceedings.

(10) If two or more claims are filed simultaneously by one Participating Financial Institution, a statement of the priority of payment of the claim compared to the other claims in the event the Loss Reserve Account is not sufficient to pay all claims.

(11) Statement whether the Qualified Loan qualifies under Section 8074(f).

(12) Certification that the Participating Financial Institution has given notice to the Authority of the initial enrollment of the loan and certification that either (A) the Participating Financial Institution has given notice to the Authority of any renewals or extensions of the loan, or (B) the loan was continuously renewed or extended within the Participating Financial Institution since the date of its initial enrollment.

(e) Except as provided in Section 8074(f) below, if a Qualified Loan suffers a loss and at the time of the Participating Financial Institution's claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible, but it shall thereafter not be eligible to obtain any further reimbursement relating to that claim.

(f) If a Qualified Loan (or any part of it) is among the first one million dollars of Qualified Loans made by a Participating Financial Institution and it suffers a loss, and at the time of the claim there is not enough money in the Loss Reserve Account to fully cover the loss, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account at a subsequent time in order to fully cover the earlier claim, provided that the amount subsequently withdrawn to cover the earlier claim cannot exceed 75 percent of the amount in the Loss Reserve Account immediately prior to such subsequent withdrawal.

(g) If subsequent to the payment of a claim by the Authority, the Participating Financial Institution recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the Participating Financial Institution was reimbursed by the Authority, the Participating Financial Institution shall promptly pay to the Authority for deposit in the Loss Reserve Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the Participating Financial Institution's loss on the Qualified Loan (including the portion of a Qualified Loan which is not enrolled in the Program). Recoveries which exceed reimbursements to the Loss Reserve Account may be retained by the Participating Financial Institution.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.5, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of subsections (a), (b), (e)(8), (h) and NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).
3. Amendment of subsections (a)-(c), repealer of former subsection (d) and subsection relettering, amendment of newly designated subsection (d)(8), new subsection (e) and subsection relettering, amendment of newly designated subsection (f), repealer of subsection (g) and relettering, and amendment of newly designated subsection (g) filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-6-96 order, including amendment of subsection (c), transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).

5. Amendment of subsections (a), (c) and (d)(4) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).
6. New subsection (d)(12) filed 8-8-2002 as an emergency pursuant to Health and Safety Code section 44520(b); operative 8-8-2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8-8-2002 order, including further amendment of subsection (d)(12), transmitted to OAL 2-3-2003 and filed 3-6-2003 (Register 2003, No. 10).
8. Amendment of subsections (b) and (d)(7) filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).

§ 8075. Subrogation.

(a) The Authority will be subrogated to the rights of the Participating Financial Institution in collateral, personal guarantees and all other forms of security for the Qualified Loan that have not been realized upon by the Participating Financial Institution, when the Participating Financial Institution's loss has been fully covered by payment of a loss claim, or by a combination of payment of a loss claim and recovery from the Borrower, liquidation of collateral, or from other sources.

(b) At the time of subrogating its rights, the Participating Financial Institution shall provide the Authority with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to the Authority, unless such security documents also secure indebtedness to the Participating Financial Institution which was not covered by the Qualified Loan. In such latter case, the Participating Financial Institution shall enter into an intercredit agreement with the Authority, providing that the Participating Financial Institution shall be entitled to recover under such security documents, to the extent possible, the full amount of its loss on any indebtedness not covered by the Qualified Loan but secured by the same collateral as the Qualified Loan; the balance of any amounts recovered under such security documents shall be deposited in the Loss Reserve Account. The Participating Financial Institution shall provide regular reports, as requested by the Executive Director, concerning its activities in collecting moneys owed from a defaulted Borrower.

(c) The Executive Director shall be authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any collateral or security documents to which the Authority has been subrogated.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of subsection (b) and NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).

§ 8076. Termination and Withdrawal from Program.

(a) A Participating Financial Institution shall be authorized to withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:

- (1) that the Participating Financial Institution waives any further interest in the Loss Reserve Account (including for the reason that all Qualified Loans covered by the Loss Reserve Account have been repaid); or
- (2) that the Participating Financial Institution will not enroll any further loans under the Program but that the Loss Reserve Account shall continue in existence to secure all Qualified Loans enrolled prior to such notice.

(b) After receipt of a notice under subsection (a)(1) or receipt of a certificate from a Participating Financial Institution which has withdrawn from the Program pursuant to subsection (a)(2), certifying that all Qualified Loans secured by the Loss Reserve Account have been repaid and that there are no pending claims for reimbursement under Section 8074, the remaining balance in the Loss Reserve Account shall be distributed to the Authority; provided that with respect to moneys deposited in the Loss Reserve Account after January 1, 1999 (and assuming all claims made after January 1, 1999 are first allocated to moneys on deposit prior to that date), such moneys shall be distributed to the Authority and to the Participating Financial Institution in the amount of the Authority Share and the Participating Financial Institution Share, respectively. For purposes of this Section 8076, "Authority Share" means the ratio of the contributions made by the Authority (or any Independent Contributor on behalf of the Authority) to the Loss Reserve Account in question from January 1, 1999 to the date of calculation, to the total amount of contributions made to such Loss Reserve Account during that period, and "Participating Financial Institution Share" means 100 minus the Authority Share.

(c) The Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program, by notice in writing, upon the occurrence of any of the following:

(1) entry of a cease and desist order, regulatory sanction, or any other action against the Participating Financial Institution by a regulatory agency that may impair its ability to participate in the Program;

(2) failure of the Participating Financial Institution to abide by the Law or this Article; or

(3) failure of the Participating Financial Institution to enroll any Qualified Loans under the Program for a period of one year.

In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 8076(a)(1).

(d) If for a consecutive 12-month period the amount in the Loss Reserve Account continuously exceeds the outstanding balance of all the Participating Financial Institution's Qualified Loans made since the beginning of the Program, the Executive Director shall be authorized to withdraw any such excess to bring the Loss Reserve Account down to an amount equal to 100 percent of the outstanding balance, in the following manner: (i) first, distributions shall be made to the Authority up to an amount allocable to the moneys on deposit in the Loss Reserve Account on January 1, 1999 (assuming all claims made after January 1, 1999 are first allocated to moneys on deposit prior to that date) and (ii) further distributions shall be made to the Authority and to the Participating Financial Institution based on the Authority Share and the Participating Financial Institution Share, respectively.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).
3. Amendment of subsection (d) filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-6-96 order transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
5. Amendment of subsections (b) and (d) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).
6. Amendment of subsection (c)(1) filed 12-29-2005 as an emergency pursuant to Health and Safety Code section 44520(b); operative 12-29-2005 (Register 2005, No. 52). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 6-27-2006 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 12-29-2005 order transmitted to OAL 4-21-2006 and filed 6-1-2006 (Register 2006, No. 22).

§ 8077. Reports of Regulatory Agencies.

The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).

§ 8078. Participation in the Program by Certain Public or Private Entities.

(a) The Authority shall be authorized to permit any individual, company, corporation, institution, utility, government agency or other entity, including any consortium of these persons or entities, to become an Independent Contributor after such person or entity

(1) submits to the Authority its Standards; provided that the Authority shall not enforce compliance by the Independent Contributor with its Standards;

(2) represents to the Authority that it will not enter into an exclusive arrangement with a particular Participating Financial Institution, but that it is prepared to work with any Participating Financial Institution under the Program;

(3) agrees to indemnify the Authority against any loss, liability or claim arising from the use of the Independent Contributor's funds in the Program;

(4) represents to the Authority that it understands and intends to abide by the provisions of the Law and this Article with regard to its participation in the Program; and

(5) deposits with the Program Trustee an initial amount of at least \$15,000 to be used to pay Fees payable by Borrowers and/or Matching Contributions in connection with Qualified Loans, or receives a written waiver from the Executive Director of this requirement.

(b) An Independent Contributor shall advise the Authority at any time the Standards provided to the Authority pursuant to Section 8078(a)(1) above are changed.

(c) The Authority shall be authorized to terminate an Independent Contributor's participation in the Program at any time, upon written notice, for any cause, including, but not limited to, failure to maintain a minimum deposit of at least \$5,000 with the Program Trustee. An Independent Contributor shall be authorized to terminate its participation in the Program at any time, upon written notice.

(d) An Independent Contributor must pay all fees of the Program Trustee attributable to the funds that the Independent Contributor deposits with the Program Trustee.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Sections 44525, 44526 and 44559.3, Division 27, Health and Safety Code.

HISTORY

1. Renumbering of former section 8078 to section 8079 and new section 8078 filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-6-96 order, including amendment of subsections (a) and (d), new subsection (a)(3), subsection renumbering, and amendment of newly designated subsection (a)(5), transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
3. Amendment of subsection (a)(5) filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8079. Codes for Qualified Businesses.

NOTE: Authority cited: Sections 44520 and 44559.5(f), Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

HISTORY

1. New section filed 3-21-94 as an emergency; operative 3-21-94 (Register 94, No. 12). This filing was deemed an emergency by Health and Safety Code section 44520(b). A Certificate of Compliance must be transmitted to OAL by 9-19-94 or the emergency regulation will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-21-94 order including amendment of NOTE transmitted to OAL 9-16-94 and filed 10-31-94 (Register 94, No. 44).

[The next page is 266.13.]

3. Renumbering and amendment of former section 8078 to section 8079 filed 2-6-96 as an emergency pursuant to Health and Safety Code section 44520(b); operative 2-6-96 (Register 96, No. 6). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-5-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-6-96 order transmitted to OAL 8-2-96 and filed 9-10-96 (Register 96, No. 37).
5. Amendment of first paragraph filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).
6. Repealer filed 12-18-2000 as an emergency pursuant to Health and Safety Code section 44520; operative 1-1-2001 (Register 2000, No. 51). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-18-2000 order transmitted to OAL 6-14-2001 and filed 7-26-2001 (Register 2001, No. 30).

Article 8. Designation and Disclosure of Confidential Information

§ 8080. Designation of Confidential Information.

No confidential information, or information that is the subject of a pending application, shall be disclosed except as provided by Section 8082, unless disclosure is ordered by a court of competent jurisdiction.

(a) Any Applicant, Participating Financial Institution or Borrower as defined in Section 8070 giving custody or ownership of information to the Authority may request that such information be designated confidential information and not publicly disclosed, but failure to so indicate at the time the information is submitted to the Authority is not a waiver of the right to request confidentiality later. A request for confidential designation shall:

- (1) be on a sheet or sheets separate from but attached to the information;
- (2) specifically indicate those parts of the information which should be kept confidential;
- (3) state the length of time the information should be kept confidential, and provide justification for the length of time;
- (4) cite and discuss (i) the provisions of the Public Records Act (California Government Code 6250 et seq.) or other law that allows the Authority to keep the information confidential, and (ii) the public interest in nondisclosure of the information. If it is believed that the record should not be disclosed because it contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, the request shall also state the specific nature of the advantage and how it would be lost, including the value of the information to the requesting party, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others;
- (5) state whether and how the information is kept confidential by the requesting party and whether it has ever been disclosed to a person other than an employee of the requesting party, and if so under what circumstances;
- (6) contain the following certification executed by the person primarily responsible for preparing the request: "I certify under penalty of perjury that the information contained in this request for confidential designation is true, correct, and complete to the best of my knowledge, and that I am authorized to make this request and certification on behalf of [name of entity]"; and
- (7) specify whether the person submitting the request wishes the information returned or disclosed upon a denial of confidential designation; information returned to requesting party shall not be considered or reviewed as part of any application for bonds, or other financial assistance or participation in the Capital Access Program.

(b) If the information contains information which the requesting party has received from another party who has demanded or requested that the requesting party maintain the confidentiality of the information, the requesting party shall address the items in Section 8080(a) to the greatest extent possible and shall explain the request made by the original party and the reasons expressed by the original party.

(c) An incomplete request shall be returned to the requesting party with a statement of its defects. The information for which confidentiality was requested shall not be disclosed for thirty (30) days after return of the request to the requesting party to allow a new request to be submitted.

(d) If a requesting party's prior request for confidential designation of substantially similar information has been granted, a request for confidential designation shall be deemed granted if the request contains a certification that the information submitted is substantially similar and that all facts and circumstances relevant to the granting or approval of the prior request are unchanged.

(e) The Executive Director shall determine if a request for confidential designation should be granted. A request shall be granted unless the requesting party has failed to make any reasonable claim that the Public Records Act or other provision of law authorizes the Authority to keep the information confidential, and upon a finding by the Executive Director that there is a public interest in nondisclosure of the information. The Executive Director shall be authorized, within thirty (30) days after receipt of a request, to require the requesting party to submit any additional information necessary to rule on the request. If the additional information is not received by the Authority within fourteen (14) days after the date of the request for additional information, the Executive Director shall deny the request. The Executive Director's determination shall be in writing and shall be mailed no later than sixty (60) days after receipt of a request or thirty (30) days after receipt of additional information, whichever is later. There shall be no administrative appeal from the Executive Director's decision. The information sought to be designated confidential shall not be available for inspection or copying for a period of 30 days after the denial of a request, during which time the requesting party may appeal such denial to a court of competent jurisdiction.

NOTE: Authority cited: Section 44520, Division 27, Health and Safety Code. Reference: Section 44537.5 and 44548, Division 27, Health and Safety Code.

HISTORY

1. New article 8 (sections 8080-8083) and section filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8081. Disclosure of Confidential Information.

(a) The Executive Director shall be authorized to disclose information determined confidential pursuant to Section 8080 to:

- (1) Agency employees whose agency work requires inspection of the information.
- (2) Persons under contract to the Authority whose work for the Authority requires inspection of the information and who agree to keep the information confidential.
- (3) Other governmental bodies which have a need for the information related to their official functions and which agree to keep the information confidential and to disclose the information only to those employees whose agency work requires inspection of the information. The Executive Director shall be permitted to request and agree on behalf of the Authority to maintain the confidentiality of other agencies' confidential information.

(4) Any person, provided that either (i) the requesting party has consented in writing to the disclosure, or (ii) the Executive Director, after prior notice to the requesting party and opportunity for the requesting party to be heard, determines that such information is not exempt from disclosure under the Public Records Act and the public interest in disclosure of such information outweighs the public interest in nondisclosure.

(b) The Executive Director shall advise the requesting party of the disclosure to persons in subsections (a), (2), (3) and (4) of this Section 8081 of information determined confidential pursuant to Section 8080.

NOTE: Authority cited: Section 6253(a), Government Code; and Section 44520, Division 27, Health and Safety Code. Reference: Section 44537.5 and 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8082. Security of Confidential Information.

The Executive Director is responsible for maintaining the security of confidential information.

NOTE: Authority cited: Section 6253(a), Government Code; and Section 44520, Division 27, Health and Safety Code. Reference: Section 44537.5 and 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

§ 8083. Delegation of Authority and Responsibilities.

The Executive Director shall be authorized to delegate any authority, duties or responsibilities under this Article to any employee of the Authority.

NOTE: Authority cited: Section 6253(a), Government Code; and Section 44520, Division 27, Health and Safety Code. Reference: Section 44537.5 and 44548, Division 27, Health and Safety Code.

HISTORY

1. New section filed 12-23-98; operative 12-23-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 52).

Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

Subarticle 1. CALReUSE Brownfield Assessment Program

§ 8090. Definitions.

In addition to the definitions set forth in Section 8102, the following definitions shall govern construction of this Article.

(a) "Applicant" means any for-profit or not-for-profit organization, school district, participating party as defined in California Health and Safety Code Section 44506, or public agency as defined in California Health and Safety Code Section 44509 applying for a Loan, Infill Loan, or Infill Grant.

(b) "Application" means the information referred to in Section 8092 or Section 8093.

(c) "Authority" means the California Pollution Control Financing Authority, organized and existing under and by virtue of Division 27 (commencing with Section 44500) of the California Health and Safety Code.

(d) "Borrower" means an Applicant whose Loan or Infill Loan has been approved and who has executed a Loan Agreement.

(e) "Brownfield" means a real estate parcel, or improvements located on the parcel, or both that parcel and the improvements, which is abandoned, idled, or underused, due to real or perceived environmental contamination, including, but not limited to, soil or groundwater contamination, the presence of underground storage tanks, or the presence of asbestos or lead paint on the parcel or in the improvements located on the parcel.

(f) "Brownfield Project" means a project for the site assessment and characterization of, and/or Planning for Remediation of Hazardous Material at a Brownfield.

(g) "Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.

(h) "Consultant" means an environmental professional as defined in 40 CFR, Section 312.10.

(i) "Development Entity" means an entity engaged in the development of real estate.

(j) "Economically Distressed Community" means a community that the Applicant demonstrates to the satisfaction of the Strategic Partner is any one or more of the following:

(1) A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department's most recent annual average for sub-county areas.

(2) A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify an area that

is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)

(3) A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify an area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)

(4) A state designated Enterprise Zone (including a Local Agency Military Base Recovery Area, Manufacturing Enhancement Area or Targeted Tax Area).

(5) A federally designated Empowerment Zone pursuant to 26 U.S.C. Section 1392, Enterprise Community pursuant to 26 U.S.C. Section 1392, or Renewal Community pursuant to Section 1400E of Title 26 of the United States Code.

(6) A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Strategic Partner determines that the project area meets the definition of blighted area contained in California Health and Safety Code Section 33030.

(7) A city or county with a military base designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent closure approved by the President of the United States without objection by the Congress. The provision will apply to proposed projects within two miles of a military base closure in an urban setting and to proposed projects within five miles of a military base closure in a rural setting.

(k) "Eligible Costs" means reasonable and necessary Brownfield Project costs, including but not limited to costs associated with any of the following:

(1) Site assessment and characterization.

(2) Technical Assistance.

(3) Planning for Remediation of Hazardous Material.

(4) Obtaining access to a Brownfield to conduct a Brownfield Project.

(5) The costs of the Oversight Agency and other governmental oversight incurred by the borrower that is related to the site assessment and characterization, and Planning for Remediation of Hazardous Material.

(l) "Enterprise Zone" means any area within a city, county, or a city and county that is designated as an enterprise zone in accordance with the provisions of Section 7073 of the California Government Code.

(m) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority.

(n) "Feasibility Study" means the identification and evaluation of technically feasible and effective Remedial Action alternatives to protect public health and the environment at a Brownfield for purposes of developing a Remedial Action Plan.

(o) "Final Report" means a written document prepared by an Independent Consultant that describes the Independent Consultant's findings resulting from the site assessment and characterization, Planning for Remediation of Hazardous Material, and/or technical assistance performed by the Independent Consultant in connection with a Brownfield.

(p) "Forgiven Loan" means a Loan for which repayment of all, or a portion, of the Loan is forgiven upon the conditions set forth in Section 8097.

(q) "Hazardous Material" means a hazardous material as defined in Section 25260(d) of the California Health and Safety Code.

(r) "Hazardous Waste Reporting Laws" means any and all state, federal and local laws, including, without limitation, statutes, rules, regulations, ordinances, administrative orders, judicial orders or consent decrees, requiring the reporting to any governmental, quasi-governmental or regulatory entity of any release, threatened release, presence or existence of a Hazardous Material or any similar substance or material into the environment.

(s) "Independent Consultant" means a Consultant who meets all of the following requirements:

(1) The Consultant is not an employee of, general or limited partner or a shareholder in, or have any other ownership or management interest in the Borrower, a known responsible party, or a prospective buyer of the Brownfield;

(2) The Consultant does not receive any source of income from the Borrower, a known responsible party, or a prospective buyer of the Brownfield, other than the payment of fees for professional services unless the Consultant is acting in his or her capacity as an employee of a governmental entity; and

(3) The Consultant does not accept, or agree to accept, any payment that is in any way contingent upon the outcome of a Final Report.

(t) "Loan" means a loan made in accordance with the procedures set forth in this Article 9.

(u) "Loan Agreement" means a written agreement for a Loan entered into between a Borrower and the Strategic Partner, or where the Strategic Partner is the Borrower, between the Borrower and the Authority.

(v) "Local Agency Military Base Recovery Area" means any military base or former military base or portion thereof that is designated as a local agency military base recovery area under the Local Agency Military Base Recovery Area Act (Cal. Govt. C. Section 7105, et seq.).

(w) "Manufacturing Enhancement Area" means an area designated as a manufacturing enhancement area pursuant to California Government Code Section 7073.8.

(x) "Match" means the Strategic Partner's financial contribution to the Brownfield Project in an amount equal to 25 percent (25%) of the Loan amount. Match also means a monetary contribution and/or related costs of overhead and staffing in amounts and percentages of each as set forth in the written agreement between the Strategic Partner and the Authority, by a Strategic Partner or other entity involved with the Brownfield Project.

(y) "Oversight Agency" means any agency with the lawful authority to oversee assessment activities, review and approve Cleanup Plans, oversee Remedial Actions and provide confirmation as to the completion of Remedial Actions required to return Brownfield properties to economically beneficial use consistent with the intended development of the Brownfield.

(z) "Planning for Remediation of Hazardous Material" means conducting a Feasibility Study, conducting a Remedial Investigation, or preparing a Remedial Action Plan or Cleanup Plan.

(aa) "Public Infrastructure" means facilities accessible to the public that may include, but are not limited to, public roads, sewers, drainage, water, natural gas and/or electricity, telephone, and transportation services.

(ab) "Remedial Action Plan" or "Cleanup Plan" means a plan approved by the Oversight Agency for performing a Remedy or taking a Remedial Action.

(ac) "Remedial Investigation" means those actions necessary to determine the full extent of a Hazardous Material at a Brownfield, identify the public health and environment threat posed by the Hazardous Material, collect data on possible remedies, and otherwise evaluate the Brownfield, for purposes of developing a Remedial Action Plan.

(ad) "Remedy" or "Remedial Action" means any action taken to remove, correct, cleanup, mitigate, remediate or abate a release of Hazardous Materials.

(ae) "Small Business" has the same meaning as in Section 8020 of Title 4 of the California Code of Regulations.

(af) "Strategic Partner" means an entity chosen by the Authority in accordance with Section 8100 and Section 8102.10 that receives and processes Applications or Infill Applications, provides Technical Assistance, disburses funds, or provides administrative services to Borrowers for purposes of this Article pursuant to a written agreement with the Authority. In the event the Authority does not contract with a Strategic Partner, or elects to act as a Strategic Partner pursuant to Section 8102.10(d), Strategic Partner means the Authority. Under certain circumstances, the Strategic Partner may be the Applicant, the Borrower, or the Grantee. In

the event the Strategic Partner is an Applicant, Borrower, or Grantee, the Authority shall be the Strategic Partner as to the Application, Loan, Infill Application, Infill Loan or Infill Grant.

(ag) "Targeted Tax Area" means an area designated as a targeted tax area in accordance with the provisions of California Government Code Section 7079.

(ah) "Technical Assistance" means information, education, training and assistance provided to an Applicant, Borrower, or Grantee by a Strategic Partner or its agent regarding Brownfield site assessment and characterization, Planning for Remediation of Hazardous Material, implementation of a Cleanup Plan and environmental regulation. Technical Assistance does not include any actions that would constitute participation in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F). Unless a Strategic Partner is a governmental entity that is exercising its regulatory authority under other applicable laws, regulations, inter-agency agreements, or governmental programs, a Strategic Partner shall not participate in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 25260(d), 25548.1, 44500, 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44509, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New article 9 (sections 8090–8101) and section filed 8–13–2001 as an emergency; operative 8–13–2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2–11–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8–13–2001 order, including amendment of subsections (u)(1) and (u)(2), transmitted to OAL 2–8–2002 and filed 3–21–2002 (Register 2002, No. 12).
3. New subarticle 1 heading and amendment of section and NOTE filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8091. Brownfield Project Loan Eligibility.

An Applicant shall be eligible for a Loan when the Strategic Partner determines all of the following:

- (a) The Applicant submits an Application that meets the requirements of Section 8092;
- (b) The Applicant proposes a Brownfield Project;
- (c) The Loan is requested to fund a portion of Eligible Costs associated with a Brownfield Project;
- (d) The Applicant demonstrates the ability to retain, or is, a Development Entity;
- (e) If the Loan and Match together does not finance all costs of the Brownfield Project, the Applicant identifies a funding source or financial means to finance the costs of the Brownfield Project not covered by the Loan;
- (f) The Applicant identifies a potential funding source or financial means to repay the Loan;
- (g) The Applicant demonstrates the ability to gather likely sources of capital to develop the Brownfield;
- (h) The Applicant has not been convicted of a felony or misdemeanor involving the regulation of Hazardous Materials, including, but not limited to, a conviction of a felony or misdemeanor under California Health and Safety Code Section 25395.13; and
- (i) Any affirmative responses provided in Section 8092(m) do not materially impugn the integrity of the Borrower or will not adversely affect the Borrower's ability to comply with these regulations.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 25395.13, 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsection (i), repealer of subsections (j)-(j)(4) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8092. Brownfield Project Application Content.

An Application shall include all of the following:

- (a) The Applicant's name, address, telephone number, federal tax identification number, type of business or entity, the date the business or entity was established.
- (b) Whether the Applicant qualifies as a Small Business.
- (c) The identity of the owner and any operators of the Brownfield, including name, address, and telephone number.
- (d) If the Applicant is not the owner of the Brownfield, evidence of:
 - (1) The Applicant's legal interest in the Brownfield;
 - (2) Permission of the owner of the Brownfield for the Applicant or the Applicant's agent(s) to have access to the Brownfield (governmental action already taken or that is expected to be taken prior to disbursement of loan proceeds to gain access or control of the Brownfield will be deemed to be permission to have access to the Brownfield); and
 - (3) Permission of the owner of the Brownfield for the Applicant or the Applicant's agent(s) to perform a Brownfield Project on the Brownfield (governmental action already taken or that is expected to be taken prior to disbursement of loan proceeds to gain access or control of the Brownfield will be deemed to be permission to perform a Brownfield Project on the Brownfield).
- (e) Information regarding the Brownfield for which the Loan is being requested, including:
 - (1) A description of the Brownfield including:
 - (A) the location of the Brownfield, including the street address, city, county, assessor parcel number(s), and/or or legal description of the Brownfield;
 - (B) evidence of the Brownfield's location in an Economically Distressed Community, if applicable;
 - (C) a site layout that includes the location and dimensions of any existing buildings, utilities, and other pertinent features, if available;
 - (D) the current use and zoning of the Brownfield;
 - (E) the current land uses and zoning of adjacent property and the surrounding neighborhood;
 - (F) identification of Public Infrastructure and its proximity to the Brownfield;
 - (G) previous use of the Brownfield;
 - (H) known and suspected Hazardous Material located at the Brownfield;
 - (I) proposed reuse of the Brownfield, if known;
 - (J) the estimated time period for completion, components, and costs of the Brownfield Project; and
 - (K) the goals and objectives of and the benefit to the community from the Brownfield Project or development of the Brownfield.
 - (2) Development timetable for the Brownfield.
 - (3) A description of obstacles to reuse of the Brownfield (e.g., regulatory issues, complex remediation, liability, and/or marketability).
 - (4) Identification of local regulatory and land use jurisdictions within which the proposed Brownfield Project is located.
 - (5) A description of community involvement and local government support for the Brownfield Project.
 - (f) A description of the Applicant's experience managing projects similar to the one proposed and the qualifications of key personnel involved.

(g) Identification of a person that meets the definition of an Independent Consultant that will perform the activities necessary to complete the Brownfield Project.

(h) Identification of the proposed Oversight Agency if the proposed Loan will be used to finance Planning for Remediation of Hazardous Material.

- (i) Identification of potential funding sources for:
 - (1) Completion of the Brownfield Project.
 - (2) Development of the Brownfield.
 - (3) Repayment of the Loan.
- (j) A description of requested Eligible Costs to be financed by the Loan.
- (k) The requested Loan amount and term.
- (l) Information demonstrating ability to provide Match for the Loan.
- (m) Information regarding any past or current bankruptcies, loan defaults, foreclosures, convictions, or criminal, civil or administrative investigations, orders, proceedings, litigation, settlements, or judgments, by or involving the Borrower or to which Borrower is or was a party.
- (n) A signed, notarized statement from the Applicant whereby the Applicant agrees to all of the following:
 - (1) To provide Application-related documentation to the Strategic Partner upon request;
 - (2) That the Application will be evaluated according to Authority regulations, and that a Loan is not an entitlement;
 - (3) That information submitted to the Strategic Partner or the Authority is subject to the California Public Records Act; and
 - (4) Under penalty of perjury, that all information provided to the Strategic Partner or the Authority is true and correct, and that the Applicant has an affirmative duty to notify the Strategic Partner or the Authority of changes causing information in the Application or other submittals to become false.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order, including amendment of subsections (d)(2) and (d)(3), transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsections (e)(1)(A)-(B) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8093. Application Availability, Submission and Strategic Partner Review.

(a) Loan Applications shall be available from the Authority's staff or from any Strategic Partner. Applicants can obtain a list of Strategic Partners or a copy of the Application by contacting the Authority's staff at the following address: California Pollution Control Financing Authority, 915 Capitol Mall, Room 457, Sacramento, California, 95814 Attention: California Recycle Underutilized Sites (CALReUSE) Program, or by telephoning (916) 654-5610. The Application shall contain the information set forth in Section 8092. The Applicant shall submit one (1) complete and signed Application to a Strategic Partner.

(b) The Strategic Partner shall review each Application in accordance with the provisions of this Article. No later than forty-five (45) days following receipt of an Application, the Strategic Partner shall in writing either:

- (1) Notify the Applicant that the Application is approved;
- (2) Notify the Applicant that the Application is denied and the reasons for the denial; or
- (3) Notify the Applicant if the Application remains incomplete and describe what additional information the Applicant needs to submit to com-

plete the Application. If the Strategic Partner determines that any document submitted in the Application is not adequate, the Application shall be deemed incomplete.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsections (a) and (b) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8094. Loan Approval and Commitment Letter.

(a) Loan Approval.

(1) The Strategic Partner shall be authorized to approve an Application when:

(A) The Application is complete and meets all of the requirements of Section 8091; and

(B) Funds are available.

(2) The Strategic Partner shall give priority to Applications for Loans as follows:

(A) First, for Brownfields not currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)) or for Brownfields that are currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)) for which no viable responsible party has been identified:

- i. First, to Brownfields located in Economically Distressed Communities;
- ii. Second, to Brownfields located in areas with existing Public Infrastructure; and
- iii. Third, to other Brownfields.

(B) Second, for Brownfields that are currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)) and for which a viable responsible party has been identified:

- i. First, to Brownfields located in Economically Distressed Communities;
- ii. Second, to Brownfields located in areas with existing Public Infrastructure; and
- iii. Third, to other Brownfields.

(b) For purposes of this section, Responsible Party means any entity identified in 42 U.S.C. Sections 9607(a)(2), 9607(a)(3) and 9607(a)(4).

(c) Commitment Letter. If the Loan is approved, the Strategic Partner shall notify the Applicant by a letter committing the Authority to provide Loan funds so long as the Applicant strictly complies with the terms and conditions contained therein. The commitment letter shall include at least all of the following:

- (1) Name(s) of the Borrower and any guarantor.
- (2) Loan amount and term.
- (3) A description of Eligible Costs to be financed by the Loan.
- (4) Description of Match, including amount and type.
- (5) Interest rate and any required loan fees.
- (6) A requirement that any evidence described in Section 8092 as being expected prior to the disbursement of loan proceeds shall be received as a condition to disbursement of loan proceeds.
- (7) Disbursement process, including a statement that Loan proceeds shall be disbursed on a reimbursement basis.

(8) Insurance requirements.

(9) Conditions and covenants.

(10) The date when the commitment expires.

(11) A statement that the Authority reserves the right to modify or cancel the commitment upon failure of the Applicant to execute a Loan Agreement that includes all of the terms and conditions set forth in the commitment letter, or if the Authority or the Strategic Partner becomes aware of any matter which, if known at the time of Loan review or approval, would have resulted in the Application not being approved. Such matters may include, but will not be limited to:

(A) A determination that the Application was prepared incorrectly, contains incorrect information or omits required information.

(B) Business circumstances that would negatively affect the Applicant's ability to repay the Loan.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order, including new subsection (b)(6) and subsection renumbering, transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Repealer of subsections (a)(2)(A)-(C), new subsections (a)(2)(A)-(B)iii. and (b), subsection relettering and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8095. Loan Terms.

The terms and conditions of a Loan shall be set forth in a Loan Agreement executed by the Borrower and shall include, at a minimum, all of the following terms and conditions:

(a) A fixed interest rate equal to the Six Month London Interbank Offered Rate (LIBOR) but not less than two percent (2%) at the time the Loan Agreement is executed;

(b) A Loan amount not greater than three hundred thousand dollars (\$300,000) or where the proposed use of the Brownfield is for an Infill Development Project as defined in Section 8102, the maximum loan amount shall be five hundred thousand dollars (\$500,000) for Eligible Costs with respect to a Brownfield. The Authority may waive the maximum Loan amount upon finding that it is in the public interest and advances the purposes of the program. For purposes of this subdivision, contiguous or related parcels included in a Brownfield Project that are owned or controlled by the same Borrower shall together be deemed to constitute one Brownfield.

(c) A Loan term not to exceed thirty-six (36) months;

(d) Principal and interest to become due and payable in full upon the earliest of:

(1) Issuance of either a grading permit or a building permit for the Brownfield

(2) Sale or transfer (including, without limitation, an option to purchase or a contract of purchase) of all or part of the Brownfield;

(3) The maturity date set forth in the Loan Agreement, which date shall not be more than thirty-six (36) months after the date of the Loan; or

(4) The occurrence of an event of default under the Loan Agreement.

(e) Evidence that the cash portion of the Match will be met at closing of the Loan and a description of and acknowledgment of credit for any non-cash portion of the Match;

(f) Disbursement and repayment procedures pursuant to Section 8096;

(g) A provision that any unused Loan funds shall revert to the Authority;

(h) Default provisions including, but not limited to, interest from and after the date of default at a rate of ten percent (10%) per annum;

(i) Agreement to comply with the Authority's program statutes and regulations;

(j) Agreement that the Borrower will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Loan, the Brownfield or this program, including but not limited to, any and all claims, losses, costs, damages, or liabilities arising from or related to the presence, release, threatened release, investigation or remediation of Hazardous Material of the Brownfield;

(k) Agreement to comply with laws outlawing discrimination including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position on a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;

(l) Agreement that continued compliance with program requirements is the Borrower's responsibility;

(m) Agreement that if the Loan is used for Eligible Costs pursuant to Section 8090(k)(1) and/or Section 8090(k)(3), that the Borrower will cause the Independent Consultant to prepare a Final Report;

(n) Agreement that the Borrower will provide or cause to be provided to the Strategic Partner a copy of the Final Report within 30 days of completion of the Final Report;

(o) Agreement that the Borrower will comply with all Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report;

(p) Agreement that the Borrower will deliver to the Strategic Partner within 90 days after Borrower's receipt of the Final Report a certification to the Authority in writing and under penalty of perjury all of the following:

(1) That the Borrower is informed of and understands all Hazardous Waste Reporting Laws applicable to the Brownfield and the contents of the Final Report;

(2) Whether there was a reporting requirement under any of the Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report;

(3) That the Borrower has made all the reports required by the Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report in the manner and within the time periods required by such Hazardous Waste Reporting Laws; and

(4) To whom and when the report was made.

(q) Agreement that Borrower's failure to comply with any Hazardous Waste Reporting Law applicable to the Brownfield or resulting from the contents of the Final Report, or failure to deliver the certification required by Section 8095(p) within the time period required, will constitute an event of default under the Loan resulting in all of the principal and interest on the Loan becoming immediately due and payable.

(r) If the Loan is for Planning for Remediation of Hazardous Materials, agreement that upon entering into the Loan Agreement, the Borrower will identify an Oversight Agency that will oversee and approve the activities that constitute Planning for Remediation of Hazardous Materials;

(s) Agreement by the Borrower to comply with all applicable law, including but not limited to statutes, rules, regulations, administrative orders and agreements, and judicial orders or consent decrees that apply to the Brownfield, related to or arising from assessment, characterization and remediation of a Brownfield, including but not limited to those requiring the preparation of a description of Hazardous Material on the Brownfield and those requiring oversight and supervision to assure the adequacy of any Feasibility Study, Remedial Investigation or Remedial Action Plan by the Oversight Agency;

(t) Agreement that if the Borrower recovers damages from a person who is liable for the release, threatened release, presence or existence of a Hazardous Material at the Brownfield, any money so recovered shall be used first to repay the Loan, except that the Borrower shall be permitted to retain fees and costs incurred in recovering the damages; and

(u) Any other provision agreed to by the parties.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order, including amendment of subsections (b), (d)(2) and (k), transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsections (a), (b) and (p)(4) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8096. Conditions of Funds Disbursement, Funds Disbursement and Loan Repayment Procedures.

(a) Conditions of Funds Disbursement. The Strategic Partner shall not disburse Loan funds unless all of the following conditions are met:

(1) All funds for completing the Brownfield Project are obtained and available for use.

(2) All terms and conditions contained in the commitment letter described in 8094(b) are satisfied;

(3) Execution of a Loan Agreement, Promissory Note and any other documents, as required, and compliance with all conditions precedent to disbursement contained in the Loan Agreement.

(b) Funds Disbursement. The Strategic Partner shall cause funds to be disbursed as follows:

(1) The Borrower shall sign and submit to the Strategic Partner a signed invoice documenting the service or procedure performed from entities providing materials and services for Eligible Costs covered by the Loan Agreement.

(2) Upon receipt of the signed invoice, the Strategic Partner, in its sole discretion, shall authorize the disbursement of Loan funds to the Borrower:

(A) First, from the cash portion of the Match until depleted, and

(B) Second, from the funds of the Authority committed by the Authority for the Loan.

(c) Loan Repayment Procedures. The Strategic Partner shall cause any Brownfield Project loan repayment proceeds received from the Borrower to be delivered promptly upon receipt by the Strategic Partner to the following entities in the following order:

(1) First, to the Authority until the funds advanced by the Authority for the Loan, or a Forgiven Loan, are repaid in full, with interest, and

(2) Second, to the Strategic Partner to repay any loan to the Borrower by the Strategic Partner in connection with the Brownfield Project, if applicable.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8097. Loan Extensions, Loan Forgiveness and Conditions for Forgiven Loans.

(a) Loan Extensions. Upon written request received from the Borrower, the maturity of a Loan may be extended by the Strategic Partner if both of the following conditions are met:

(1) The Borrower clearly demonstrates that it is unable to complete the Brownfield Project by the end of the Loan term, and

(2) The Borrower clearly demonstrates how the Brownfield Project can be completed in the additional time requested.

(b) Loan Forgiveness. Upon written request from the Borrower, a Loan may be forgiven by the Strategic Partner if the Borrower, acting reasonably and in good faith, fails to complete the Brownfield Project or proceed with development of the Brownfield.

(c) Conditions for Forgiven Loans. Any forgiveness of a Loan hereunder shall be conditioned on:

(1) The Borrower's execution of a written agreement whereby:

(A) The Borrower promises that in the event the Borrower subsequently causes (i) the issuance of either a grading permit or a building permit for the Brownfield or (ii) sells or transfers (including, without limitation, an option to purchase or a contract of purchase) all or part of the Brownfield, the Borrower will repay the forgiven balance of the Loan (and the Strategic Partner shall receive and deliver such funds in accordance with Section 8096(c)); and

(B) The Borrower promises that if it recovers damages from a person who is liable for the release, threatened release, presence or existence of a Hazardous Material at the Brownfield, any money so recovered shall be used first by the Borrower to repay the forgiven balance of the Loan, except that the Borrower shall be permitted to retain fees and costs incurred in recovering the damages.

(2) The Borrower's delivery of documentation to the Strategic Partner evidencing that the Borrower has complied with all applicable laws, including but not limited to statutes, rules, and regulations, administrative orders and agreements, judicial orders, and consent decrees that apply to the Brownfield and relate to or arise from the site assessment and characterization, Planning for Remediation of Hazardous Materials, and remediation of the Brownfield. Such documentation shall include evidence that the Borrower has complied with any applicable requirement to obtain oversight and approval from an Oversight Agency.

(3) The Borrower's delivery of the Final Report to the Strategic Partner as required by Section 8095(n).

(4) The Borrower's delivery to the Strategic Partner of the certification as required by Section 8095(p).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order, including amendment of subsections (a) and (c)(1)(A), transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8098. Strategic Partner Reports and Records Retention.

(a) A Strategic Partner shall provide the following quarterly reports to the Authority no later than the fifteenth day of April, July, October, and January for the quarters ending in March, June, September and December, respectively:

(1) Applications Received Report. This report shall include the following information:

(A) A listing of identified Brownfield Projects for which Applications have been submitted and for which funding is anticipated during the next six months.

(B) Identification of whether proposed Brownfield Projects are located in Economically Distressed Communities.

(C) Identification of whether the Strategic Partner is the Applicant.

(2) Request for Funds Report. This report shall include the following information for each Brownfield Project to be funded during the next three months:

(A) A description of the Brownfield Project.

(B) Identification of whether the Brownfield Project is located in an Economically Distressed Community.

(C) Identification of whether the Strategic Partner is the Applicant.

(D) Identification of whether the Applicant qualifies as a Small Business.

(E) Requested Loan amount for Brownfield Project.

(F) Description of Eligible Costs to be funded for the Brownfield Project.

(G) Proposed Loan term.

(H) Description of Match for the Brownfield Project including the source and amount of Match.

(I) Identification of total amount of loan funds requested for the quarter.

(3) Brownfields Projects Status Report. This report shall describe the current status of each Brownfield Project for which a Loan (including a Loan for which the Strategic Partner is the Borrower) remains outstanding including:

(A) A description of activities performed at the Brownfield for the previous three months.

(B) A statement of whether the Strategic Partner has received the Final Report and, if so, a summary of the Final Report that was received during the previous three months.

(C) A statement of whether the Strategic Partner has received the certification required by Section 8095(p).

(4) Outstanding Loans Report. This report shall describe the current repayment status of every Loan (including a Loan where the Strategic Partner is the Borrower) including:

(A) Name of Borrower.

(B) Identification of whether the Borrower is a Small Business.

(C) Identification of whether the Borrower is a Strategic Partner.

(D) Name of Brownfield Project.

(E) Street Address of the Brownfield.

(F) Draw down on Match.

(G) Current payments.

(H) Total Loan repayment status.

(I) If a Loan is extended:

(i) The date that the Loan was extended, and

(ii) The current Loan amount and term.

(J) If a Loan is a Forgiven Loan:

(i) The date that the Loan was forgiven, and

(ii) The amount forgiven.

(5) Other reports and documents as reasonably requested by the Authority.

(b) Brownfields Development Status Report. A Strategic Partner shall provide an annual report to the Authority that shall describe the current status of the development of each Brownfield for which a Loan (including a Loan where the Strategic Partner is the Borrower) was made including:

(1) A description of the proposed use for the Brownfield.

(2) A detailed description of development activities performed at the Brownfield for the previous year.

(3) Upon completion of development of the Brownfield, a description of the final use for the property.

(c) Records Retention. A Strategic Partner shall retain the Application, all documents that were submitted by the Borrower with the Application, and all documents pertaining to the Loan and the Brownfield Project for at least six years after the later of the termination of the Loan, or the completion of actions and the resolution of all issues, that arise as a result of any litigation, claim, negotiation or audit concerning the Loan Agreement or an agreement executed pursuant to Section 8097(c)(1).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order, including repealer of subsection (a)(1)(D), transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsections (a), (a)(1)(B), (a)(2)(B) and (a)(3)(B)-(C) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8099. Technical Assistance.

(a) Upon request of an Applicant or Borrower, the Strategic Partner may provide Technical Assistance to assist in the assessment of a Brownfield Project.

(b) Technical Assistance provided by a Strategic Partner during the assessment phase of the Brownfield Project may count as Match for the Brownfield Project, but may not be reimbursed with Loan funds.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of subsections (a) and (b), repealer of subsection (c) and amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8100. Strategic Partner Eligibility and Selection Criteria.

(a) A governmental agency or public or private entity shall be eligible to participate as a Strategic Partner and Strategic Partners will be selected by the Authority based upon the following eligibility and selection criteria:

- (1) Demonstrated ability to provide Technical Assistance to a Development Entity;
- (2) Demonstrated understanding of the economic and real estate development processes;
- (3) Demonstrated understanding of environmental assessment and remediation requirements;
- (4) Demonstrated understanding of Brownfield regulatory and reporting requirements; and
- (5) Demonstrated partnership experience.

(b) The services to be provided by a Strategic Partner pursuant to Section 8090(a) hereof shall be provided as an independent contractor pursuant to a written agreement to be entered into by and between the Strategic Partner and the Authority.

(c) An entity may not act as a Strategic Partner as to any Brownfield for which such entity is a responsible party as defined by Section 25323.5 of the California Health and Safety Code. However, as to any such Brownfield, the entity may be an Applicant and Borrower, and the Authority shall be the Strategic Partner with respect to such Application and Loan.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 25323.5, 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate

of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8101. Strategic Partner as Applicant and/or Borrower.

The following shall apply in all cases where the Strategic Partner is the Applicant or the Borrower or in the event the Strategic Partner is unable to act relative to an Applicant due to a conflict of interest as defined in the Political Reform Act (Government Code Sections 81000 through 91014):

(a) The Authority shall be the Strategic Partner as to the Application and Loan.

(b) If the Authority is the Strategic Partner, the Executive Director shall be authorized to:

- (1) Determine whether the Applicant shall be eligible for a Loan pursuant to Section 8091.
- (2) Review the Application and notify the Applicant pursuant to Section 8093.
- (3) Approve the Loan and notify the Applicant pursuant to Section 8094.
- (4) Cause funds to be disbursed to the Borrower pursuant to Section 8096.
- (5) Determine whether a Loan shall be extended or forgiven pursuant to Section 8097.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 8-13-2001 as an emergency; operative 8-13-2001 (Register 2001, No. 33). Pursuant to Health and Safety Code section 44520, a Certificate of Compliance must be transmitted to OAL by 2-11-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-13-2001 order transmitted to OAL 2-8-2002 and filed 3-21-2002 (Register 2002, No. 12).
3. Amendment of section and NOTE filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

Subarticle 2. CalReUSE Remediation Program.

§ 8102. Brownfield Infill Project Program Definitions.

In addition to, or in place of the definitions contained in Section 8090, the following definitions shall govern construction of the Brownfield Infill Project Program.

(a) "Brownfield Infill Project" means a project within an Infill Area involving the Remedy, Remedial Action, mitigation and clean-up of Hazardous Material, including assessment and site characterization regarding Hazardous Materials first uncovered in the course of mitigation or remediation funded by an Infill Grant or Infill Loan.

(b) "Brownfield Remediation Completion Document" means a written verification from an Oversight Agency stating that the Remedial Work performed was adequate in the remediation of Hazardous Materials at the Brownfield Infill Project.

(c) "Brownfield Remediation Final Report" means a written document that includes, but is not limited to:

- (1) Certification that the Borrower or Grantee implemented the final remedy in accordance with the approved Cleanup Plan, and that the work was done in accordance with all applicable laws and regulations.
- (2) Certification that the Brownfield Infill Project has been completed in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000-21178) and the State CEQA guidelines.

(3) A final description of the Remedial Work conducted on the Brownfield Infill Project, including but not limited to:

(A) A description of the Remedial Work conducted on the Brownfield Infill Project;

(B) Copies of all necessary permits relating to the Brownfield Infill Project;

(C) Copies of the original and amended versions of the approved Cleanup Plan; and

(D) A description of the public outreach conducted relating to the Brownfield Infill Project.

(4) Provision of a copy of the Brownfield Remediation Completion Document the Borrower or Grantee received from the appropriate Oversight Agency.

(5) Where the remediation and/or Cleanup Plan includes Ongoing Operation and Maintenance, a copy of a plan, approved by the Oversight Agency that ensures that the required mitigation measure will remain in operation for the required time and a copy of the agreement creating a trust or escrow account for the funds.

(d) "Completed Infill Development Project," "Completion of the Infill Development Project," or "Complete the Infill Development Project" means the point at which the development of the Brownfield is completed, and the Applicant has received a certificate of occupancy, or its equivalent, from the appropriate local public agency.

(e) "Completed Infill Development Project Report" means a report submitted to the Strategic Partner which includes the Applicant's certification of a Completed Infill Development Project which will include, but is not limited to:

(1) A description of the Completed Infill Development Project, including a comparison to the Applicant's description pursuant to Section 8102.2;

(2) A certificate of occupancy, or the equivalent building permit or legal document from the appropriate local government agency; and

(3) A copy of the Regulatory Agreement or Recorded Covenant, if applicable.

(f) "Eligible Brownfield Infill Project Cost" means costs associated with the removal or abatement of Hazardous Materials and Remedial Work related to the Cleanup Plan, pursuant and in accordance with Health and Safety Code Section 44526(h)(1), including, but not limited to:

(1) Cleanup, mitigation, remediation, mid-project assessment and characterization, and other costs, including development costs as required by the Oversight Agency;

(2) Technical Assistance;

(3) The Costs of the Oversight Agency and other Governmental oversight incurred by the Borrower and/or Grantee that is associated with the Remedial Actions related to the Brownfield Infill Project;

(4) No more than twenty percent (20%) of the requested Infill Loan or Infill Grant amount may be spent on environmental insurance.

(5) Capitalized Ongoing Operation and Maintenance Costs required by the Oversight Agency as part of the Cleanup Plan.

(g) "Grantee" means an Applicant whose Infill Application has been approved and who has executed an Infill Grant Agreement.

(h) "Infill Application" means the provision by the Applicant of the information requested in Section 8102.2.

(i) "Infill Area" means a contiguous area that has been previously developed that is located within an established urban and/or rural neighborhoods or communities, where those neighborhoods or communities are already served with streets, water, sewer and other public services.

(j) "Infill Development Project" means a development project within an Infill Area, consistent with Regional and Local Land Use Plans, which produces or Promotes Infill Residential Development or Infill Mixed Use Development.

(k) "Infill Grant" means a grant made in accordance with procedures in Sections 8102.1, and 8102.4.

(l) "Infill Grant Agreement" means a written agreement for an Infill Grant entered into between:

(1) An Applicant and a Strategic Partner; or

(2) An Applicant and the Authority, where the Authority has elected to act as a Strategic Partner pursuant to Section 8102.11(d); or

(3) An Applicant and the Authority in the event the Strategic Partner is unable to act due to a conflict of interest as defined in the Political Reform Act (Government Code Sections 81000-91014);

(4) A Strategic Partner and the Authority pursuant to Section 8102.12.

(m) "Infill Loan" means a loan made in accordance with the procedures in Sections 8102.1 and 8102.4.

(n) "Infill Loan Agreement" means a written agreement for an Infill Loan entered into between:

(1) An Applicant and a Strategic Partner; or

(2) An Applicant and the Authority, where the Authority has elected to act as a Strategic Partner pursuant to Section 8102.11(d); or

(3) An Applicant and the Authority in the event the Strategic Partner is unable to act due to a conflict of interest as defined in the Political Reform Act (Government Code Sections 81000-91014);

(4) A Strategic Partner and the Authority pursuant to Section 8102.12.

(o) "Ineligible Brownfield Infill Project Costs" includes, but is not limited to:

(1) Costs not authorized by Health and Safety Code Section 44526(h)(1);

(2) Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such permit is required by the Cleanup Plan;

(p) "Mixed Use Development" means a development project including residential use and at least one other type of use in a building or set of buildings. Along with residential, included uses can be, but are not limited to some combination of commercial, industrial, office, institutional, or other land uses.

(q) "Ongoing Operation and Maintenance" means those activities initiated or continued at a Brownfield Infill Project beyond the term of the Infill Loan Agreement or Infill Grant Agreement that is deemed necessary by the Oversight Agency in order to protect public health or safety or the environment, to maintain the effectiveness of the Remedial Work at the Brownfield Infill Project, or to achieve or maintain the standards and objectives established and approved by the Oversight Agency.

(r) "Promotes Infill Residential Development or Mixed Use Development" means an Infill Development Project that is directly related to and necessary for the development of new Residential Development or Mixed Use Development within an Infill Area and required by the local governing body.

(s) "Recorded Covenant" means a covenant recorded on an Infill Brownfield Development Project which receives an Infill Grant:

(1) Ensuring the affordability of rental units for a term of at least fifty-five (55) years; or

(2) Including either a resale restriction for at least thirty (30) years or equity sharing upon resale for ownership units.

(t) "Regional and Local Land Use Plan(s)" means at least one of the following:

(1) The adopted general plan of city, county, or city and county, in which the Infill Development Project resides;

(2) The housing element of the city, county, or city and county, in which the Infill Development Project resides;

(3) A project area redevelopment plan;

(4) A regional blueprint plan;

(5) A capital improvement plan; or

(6) A regional transportation plan or a transportation corridor plan.

(u) "Regulatory Agreement" means a recorded legal agreement between the Applicant and a public agency that determines the restrictions and terms of affordability of the housing units created by the Infill Development Project.

(v) "Remedial Work" means the performance of the activities outlined and required by the Oversight Agency of the Brownfield Infill Project.

(w) "Residential Development" means a project with the primary purpose of providing housing.

(x) "Responsible Party" means any entity identified in 42 U.S.C. Sections 9607(a)(2), 9607(a)(3) and 9607(a)(4).

(y) "Supplemental Infill Application" means the provision by the Applicant of the information requested in Section 8102.2 that was not previously provided pursuant to Section 8092, which must include:

(1) Certification that the information provided by the Applicant pursuant to Section 8092 is current and updated;

(2) The Applicant provides the certification of information pursuant to Section 8102.2(l) and Section 8102.2(m).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(h)(1), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New subarticle 2 (sections 8102–8102.15) and section filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.1. Infill Grant and Infill Loan Eligibility.

(a) An Applicant shall be eligible for an Infill Grant or Infill Loan when the Strategic Partner determines all of the following:

(1) The Applicant submits an Infill Application that meets the requirements of Section 8102.2;

(2) The Applicant proposes a Brownfield Infill Project within an Infill Area;

(3) The Applicant submits a Remedial Action Plan or Cleanup Plan that has been approved by an appropriate Oversight Agency;

(4) The Applicant submits an All Appropriate Inquiries report prepared in compliance with the requirements of Title 40, Part 312 of the Code of Federal Regulations;

(5) The Infill Grant or Infill Loan is requested to fund all or a portion of Eligible Brownfield Infill Project Costs associated with a Brownfield Infill Project;

(6) The Applicant demonstrates the ability to retain, or is, a development entity;

(7) If the requested Infill Grant or Infill Loan does not finance all costs of the Brownfield Infill Project, the Applicant identifies an alternative funding source or other financial means to finance the costs of the Brownfield Infill Project not covered by the Infill Grant or Infill Loan;

(8) The Applicant demonstrates that the Infill Development Project produces or Promotes Infill Residential Development or Mixed Use Development;

(9) The Applicant demonstrates that the Infill Development Project is consistent with Regional and Local Land Use Plan(s);

(10) The Applicant identifies the funding sources to develop the Infill Development Project ;

(11) The Applicant has not been convicted of a felony or misdemeanor involving the regulation of Hazardous Materials, including, but not limited to, a conviction of a felony or misdemeanor under California Health and Safety Code Section 25395.13; and

(12) Any affirmative responses provided in Section 8102.2(l) do not materially impugn the integrity of the Applicant or will not adversely affect the Applicant's ability to comply with these regulations.

(b) The determination of eligibility by a Strategic Partner does not constitute approval of an Infill Application. No award can be made unless the Strategic Partner's recommendation is subsequently ratified by the Authority.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 25395.13, 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.2. Infill Application Content.

An Infill Application shall include all of the following information, and indicate the source of information in circumstances in which the Applicant is not the primary source.

(a) The Applicant's name, address, telephone number, federal tax identification number, type of business or entity, the date the business or entity was established.

(b) Whether the Applicant is applying for an Infill Grant and/or an Infill Loan and the necessary information establishing eligibility for the grant or loan applied for.

(c) The identity of the owner and any operators of the Brownfield, including name, address, and telephone number.

(d) If the Applicant is not the owner of the Brownfield, evidence of:

(1) The Applicant's legal interest in the Brownfield;

(2) Signed permission from the owner of the Brownfield for the Applicant or the Applicant's agent(s) to have access to the Brownfield; and

(3) Signed permission from the owner of the Brownfield for the Applicant or the Applicant's Agent to conduct remediation on the Brownfield.

(e) Information regarding the Oversight Agency and Cleanup Plan, including:

(1) Identification of the Oversight Agency and staff member that is assigned to the Brownfield Infill Project, including name, phone number, address, and email address.

(2) A copy of the draft Cleanup Plan submitted to the Oversight Agency.

(3) A copy of the All Appropriate Inquiries report prepared in compliance with the requirements of Title 40, Part 312 of the Code of Federal Regulations.

(f) Information regarding the Brownfield for which the Infill Grant or Infill Loan is being requested, including:

(1) A description of the Brownfield Infill Project including:

(A) The location of the Brownfield, including the site address, parcel number and area of the Brownfield site;

(B) A description of the portions of the Brownfield site which will be dedicated to housing, commercial, retail, open space and other uses;

(C) Evidence of the Brownfield's location in an Infill Area;

(D) Evidence of the Brownfield's location within an Economically Distressed Community, if applicable;

(E) A site layout that includes the location and dimensions of any existing buildings, utilities, and other pertinent features, if available;

(F) The current use and zoning of the Brownfield;

(G) The current land uses and zoning of adjacent property and the surrounding neighborhood;

(H) Identification of Public Infrastructure and its proximity to the Brownfield; and

(I) The estimated time period for completion, components, and costs of the Brownfield Infill Project.

(2) A description of the proposed Infill Development Project including, but not limited to:

(A) Evidence the Infill Development Project is consistent with Regional or Local Land Use Plans, or where consistency depends on pending changes to the plans, the Applicant may submit a letter from the local planning director demonstrating the local governing agency's support for the Infill Development Project.

(B) Evidence the proposed Infill Development Project Promotes Infill Residential or Mixed Use Development, including:

i. The number of housing units to be created;

ii. Where affordable housing is proposed, the depth and duration of the affordability of the housing units;

iii. Description of area jobs, community amenities and transit;

iv. Description of the population the Infill Development Project will serve;

v. If the final characteristics of the Infill Development Project are dependent on pending financing, the Applicant must include descriptions of any intended alternative development as it relates to the final characteristics of the Infill Development Project. Where alternative Infill De-

velopment Projects are submitted, the alternative receiving the lowest score according to the criteria set forth in Section 8102.14 will be used to rank the Infill Application.

(C) The estimated time period for completion, components, and costs for the Infill Development Project;

(D) The goals and objectives of, and the benefit to the community from, the Infill Development Project.

(3) A description of obstacles to the reuse of the Brownfield (e.g., regulatory issues, complex remediation, liability, and/or marketability).

(4) A listing of the various permits and approvals expected to be required from the local regulatory land use jurisdictions and agencies, including contact information and status of the permit applications.

(5) A description of community involvement and local government support for the Brownfield Infill Project and Infill Development Project.

(g) A description of the Applicant's experience managing projects similar to the one proposed and the qualifications of key personnel involved.

(h) Identification and contact information of the primary persons and their roles and responsibilities for performing and overseeing the activities necessary to complete the Brownfield Infill Project.

(i) Identification of potential funding sources for:

(1) Completion of the Brownfield Infill Project;

(2) Completion of the Infill Development Project; and

(3) Repayment of the Infill Loan (if applicable).

(j) A description of requested Eligible Brownfield Infill Project Costs to be financed by the Infill Grant or Infill Loan.

(k) The requested Infill Grant or Infill Loan amount and term.

(l) Information regarding bankruptcies, loan defaults, foreclosures, convictions, or criminal, civil or administrative investigations, orders, proceedings, litigation, settlements, or judgments relating to land development or brownfield cleanup, by or involving the Applicant or to which Applicant is or was a party within the ten years immediately preceding the Infill Application.

(m) A signed, notarized statement from the Applicant whereby the Applicant agrees to all of the following:

(1) To provide Infill Application-related documentation to the Strategic Partner upon request;

(2) That the Infill Application will be evaluated according to Authority regulations, and that an Infill Grant or Infill Loan is not an entitlement;

(3) That information submitted to the Strategic Partner or the Authority is subject to the California Public Records Act (Government Code Sections 6250, et seq.); and

(4) Under penalty of perjury, that all information provided to the Strategic Partner or the Authority is true and correct, and that the Applicant has an affirmative duty to notify the Strategic Partner and Authority of changes causing information in the Infill Application or other submittals to become false.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.3. Infill Application Availability, Submission and Strategic Partner Review.

(a) Applicants can obtain information regarding application procedures by contacting the Authority's staff at the following address: California Pollution Control Financing Authority, 915 Capitol Mall, Room 457, Sacramento, California, 95814 Attention: California Recycle Underutilized Sites (CALReUSE) Program, or by telephoning (916) 654-5610.

(b) The Applicant shall submit two (2) complete and signed Infill Applications to a Strategic Partner.

(c) The Infill Application shall contain the information set forth in Section 8102.2.

(d) The Strategic Partner shall review each Infill Application in accordance with the provisions of this Subarticle. No later than forty-five (45) days following receipt of a completed Infill Application, the Strategic Partner shall in writing either:

(1) Notify the Applicant that the Infill Grant Application is being recommended to the Authority for approval;

(2) Notify the Applicant that the Infill Loan Application is not being recommended to the Authority and the reasons for the denial; or

(3) Notify the Applicant that the Infill Application remains incomplete and describe what additional information the Applicant needs to submit to complete the Infill Application. If the Strategic Partner determines that any document submitted in the Infill Application is not adequate, the Infill Application shall be deemed incomplete.

(e) If an Applicant has previously been a Borrower under the Site Assessment Program set forth in Subarticle 1 as to the same Brownfield for which funding is now sought under this Subarticle, the Applicant shall submit a Supplemental Infill Application for either an Infill Loan or Infill Grant under the same conditions identified in Sections 8102.3(b), 8102(c) and 8102.3(d).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.4. Infill Grants and Infill Loans.

(a) Infill Grants, Infill Loans or combined Infill Grants and Loans to the same entity for the same Brownfield Infill Project shall not be less than fifty thousand (\$50,000) nor more than five million dollars (\$5,000,000). The Authority may waive the minimum or maximum upon a finding that it is in the public interest and advances the purposes of the program.

(b) Infill Grants may be awarded to Applicants to the extent the proposed Infill Development Project includes not less than fifteen percent (15%) affordable units as set forth in Health and Safety Code Sections 53545.13(c)(2)(C) and 53545.13(c)(2)(D). In addition, the proposed Infill Development Project must meet the density requirements set forth in Health and Safety Code Section 53545.13(c)(3).

(c) The following Proposed Infill Development Projects may qualify for Infill Grants if they provide substantial:

(1) Housing for homeless populations.

(2) Housing for special needs populations as defined in Section 10325(g)(3) of Title 4 of the California Code of Regulations.

(3) Single Room Occupancy (SRO) housing as defined in Section 10325(g)(3) of Title 4 of the California Code of Regulations.

(4) United States Department of Housing and Urban Development Section 202 Supportive Housing for the Elderly.

(5) United States Department of Housing and Urban Development Section 811 Supportive Housing for Person with Disabilities.

(6) Housing for families with special needs that require temporary relocation.

(d) Infill Grants shall not be awarded to any Responsible Party.

(e) In awarding Infill Grants the Authority shall prioritize applications into tiers as follows:

(1) Sites not currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)) and sites that are currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)), for which

no viable Responsible Party has been identified shall be accorded first priority.

(2) Sites currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B)) for which a viable Responsible Party has been identified shall be accorded second priority.

(f) The following proposed Infill Development Projects may be eligible for an Infill Loan at an interest rate equal to the Six Month London Interbank Offered Rate (LIBOR) but not less than two percent (2%) which shall be fixed at the time of the execution of the Loan Agreement:

(1) Any proposed Infill Development Project that is eligible for an Infill Grant.

(2) Any proposed Infill Development Project that Promotes Infill Residential or Mixed Use Development.

(g) Where the specifics of a proposed Infill Development Project are uncertain at the time of application, the Infill Application will be considered as one for an Infill Loan pursuant to paragraph (e). The Infill Loan Agreement will contain a conversion feature that will allow the loan to be converted to an Infill Grant pursuant to paragraphs (b) and (c). Any conversion will be adjusted back to the date of execution and is dependent on a Regulatory Agreement with an appropriate public agency or a Recorded Covenant.

(h) An Infill Development Project that in and of itself does not produce housing units, but Promotes Infill Residential or Mixed Use Development, will be eligible to receive the financial terms of the Residential Development or Mixed Use Development that the Infill Development Project is related to, and necessary for.

(i) The Strategic Partner will, upon entering into an Infill Loan Agreement or Infill Grant Agreement, place a lien on the property on the Authority's behalf, which shall be subordinated to private and public lenders where necessary to achieve completion of the Infill Development Project.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545, 53545.13(c)(2)(C), 53545.13(c)(2)(D), 53545.13(c)(3) and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.5. Infill Grant and Infill Loan Approval.

(a) Upon recommendation from the Strategic Partner, the Authority may approve an Infill Application. The Strategic Partner may recommend approval upon a determination that:

(1) The Infill Application is complete and satisfies the requirements of Section 8102.2;

(2) The proposed Infill Development Project meets the requirements of Sections 8102.1 and 8102.4;

(3) The Infill Application has been scored according to the criteria set forth in Section 8102.14.

(b) An Applicant may submit an Infill Application where its Remedial Action Plan or Cleanup Plan has been submitted to, but has not yet been approved by, the appropriate Oversight Agency. Upon receipt of an Infill Application that is complete except for the inclusion of a Remedial Action Plan or Cleanup Plan approved by the appropriate Oversight Agency, the Strategic Partner shall conduct a preliminary review and inform the Applicant the Infill Application is complete contingent upon receipt of a Remedial Action Plan or Cleanup Plan approval from the appropriate Oversight Agency.

Notice from the Strategic Partner that the Infill Application is complete does not constitute approval or create any obligation to fund an Infill Grant or Infill Loan. Where the Infill Grant or Infill Loan is ultimately funded however, any Eligible Brownfield Infill Costs may be reimbursed

back to the date the Infill Application was deemed complete by the Strategic Partner.

(c) Upon approval of an Infill Application by the Authority, the Strategic Partner shall notify the Applicant by a letter committing the Authority to provide Infill Grant or Infill Loan funds so long as the Applicant strictly complies with the terms and conditions contained therein. The commitment letter shall include at least all of the following:

(1) Name of the Applicant and any guarantor;

(2) Amount and term of the Infill Grant or Infill Loan;

(3) A description of Eligible Brownfield Infill Costs to be financed by the Infill Grant or Infill Loan;

(4) Interest rate, if applicable;

(5) A requirement that any evidence described in Section 8102.2 as being expected prior to the disbursement of loan proceeds shall be received as a condition to disbursement of Infill Grant or Infill Loan proceeds;

(6) A description of the disbursement process, including a statement that Infill Grant or Infill Loan proceeds shall be disbursed on a reimbursement basis;

(7) Insurance requirements, if any;

(8) Conditions and covenants;

(9) The date when the commitment expires;

(10) A statement that the Authority reserves the right to modify or cancel the commitment upon failure of the Applicant to execute an Infill Grant Agreement or Infill Loan Agreement that includes all of the terms and conditions set forth in the commitment letter, or if the Authority or the Strategic Partner becomes aware of any material fact which, if known at the time of Infill Grant or Infill Loan review or approval, would have resulted in the Infill Application not being approved, including but not limited to:

(A) A determination that the Infill Application was prepared incorrectly, contains incorrect information or omits required information; or

(B) Any change in business circumstances that would negatively affect the Applicant's ability to repay the Infill Loan or complete the Infill Development Project.

(11) A Commitment Letter will reserve the Applicant's award until the Cleanup Plan or Remedial Action Plan is approved by the Oversight Agency and the necessary Infill Grant Agreement or Infill Loan Agreement can be executed.

(12) A Commitment Letter is valid for twelve (12) months. If the Applicant's Cleanup Plan or Remedial Action Plan has not been approved by an Oversight Agency upon expiration of the Commitment Letter:

(A) The Authority may extend the term of any commitment letter upon a finding that it is in the public interest and advances the purposes of the program.

(B) The award may be deemed to be unencumbered and will revert to the Authority.

(C) The Applicant may be required to re-submit its Infill Application to be considered for any subsequent Infill Grant or Infill Loan.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.6. Infill Grant and Infill Loan Terms.

(a) The terms and conditions of an Infill Grant or Infill Loan shall be set forth in an Infill Grant Agreement or Infill Loan Agreement executed by the Grantee or Borrower and shall include, at a minimum, all of the following terms and conditions:

(1) A requirement that the Grantee or Borrower will submit a letter from the Oversight Agency approving the Cleanup Plan before any funds will be disbursed;

(2) A requirement that the first draw on the funds be made within twelve (12) months of the execution of the Infill Grant Agreement or Infill Loan Agreement;

(3) A requirement that all Remedial Work will be completed within the term of the Infill Grant or Infill Loan, not to exceed six (6) years from the time of the first draw;

(4) A provision allowing the Strategic Partner to extend the term of the Infill Loan or Infill Grant by as much as two years as set forth in Section 8102.8;

(5) Disbursement and repayment procedures pursuant to Section 8102.7;

(6) A provision that any unused Infill Grant or Infill Loan funds shall revert to the Authority at the end of the term of the Infill Grant Agreement or Infill Loan Agreement;

(7) A certification by the Grantee or Borrower that the Infill Development Project meets the eligibility requirements of Section 8102.1(a) and a description of the Infill Development Project that conforms to Section 8102.2(f)(2).

(8) Agreement that upon Completion of the Infill Development Project the Grantee or Borrower will submit a Completed Infill Development Project Report.

(9) Agreement to comply with the Authority's program statutes and regulations;

(10) Agreement that the Grantee or Borrower is and will remain for the term of the Infill Loan or Infill Grant in compliance with all laws regulations and rules applicable to the project.

(11) Agreement that the Brownfield Infill Project and the Infill Development Project will comply with the California Environmental Quality Act (Public Resources Code Sections 21000, et seq.) and the State CEQA guidelines contained in Sections 15000, et seq. of Title 14 of the California Code of Regulations.

(12) Agreement that the funds of the Infill Loan or Infill Grant will be used only for Eligible Brownfield Infill Project Costs as defined in Section 8102(f).

(13) Agreement that the Grantee or Borrower will work with the Oversight Agency identified in the Infill Grant Agreement or Infill Loan Agreement.

(14) Certification that the Grantee or Borrower has and will maintain any and all required insurance policies for the term of the Infill Loan or Infill Grant.

(15) Agreement that the Grantee or Borrower will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Infill Grant or Infill Loan, the Brownfield Infill Project, the Infill Development Project or this program, including but not limited to, any and all claims, losses, costs, damages, or liabilities arising from or related to the presence, release, threatened release, investigation or remediation of Hazardous Material of the Brownfield Infill Project;

(16) Agreement to comply with laws outlawing discrimination including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;

(17) Agreement that continued compliance with program requirements is the responsibility of the Grantee or Borrower;

(18) Agreement that the Grantee or Borrower will timely provide all required reports and notices to the Strategic Partner during the term of the Infill Loan or Infill Grant and until Completion of the Infill Development Project;

(19) Agreement that the Grantee or Borrower will provide or cause to be provided to the Strategic Partner a copy of the Brownfield Remediation

Final Report within 30 days of completion of the Brownfield Remediation Final Report;

(20) Agreement that, except as provided by Section 8102.6(a)(25)(E), Grantee or Borrower's failure to comply with any law, regulation or rule applicable to the project, or failure to deliver any certification required by Section 8102.6 within the time period required, will constitute an event of default under the Infill Grant or Infill Loan Agreement resulting in the principal and any interest of an Infill Loan becoming immediately due and payable or the seizure of any unexpended Infill Grant funds and the immediate conversion of expended Infill Grant funds becoming subject to the terms of an Infill Loan pursuant to Section 8102.4 which shall then be immediately due and payable.

(21) Agreement by the Grantee or Borrower to comply with all applicable laws, including but not limited to statutes, rules, regulations, administrative orders and agreements, and judicial orders or consent decrees that apply to the Brownfield Infill Project, related to or arising from assessment, characterization and remediation of a Brownfield, including but not limited to those requiring the preparation of a description of Hazardous Material on the Brownfield and those requiring oversight and supervision to assure the adequacy of any Feasibility Study, Remedial Investigation, Remedial Action Plan, or Remedial Work by the Oversight Agency;

(22) Agreement that upon being informed, or finding, that information supplied by the Grantee or Borrower, any person acting on behalf of the Grantee or Borrower, or any team member identified in the Infill Application, is false or no longer true, and the Grantee or Borrower has not notified the Authority or the Strategic Partner, the Authority may invoke the default provisions or false information provisions, as it deems appropriate.

(23) Agreement that upon a finding by the Strategic Partner or the Authority that the Borrower or Grantee has provided false material information to the Strategic Partner or Authority may result in any of the following:

(A) Acceleration of repayment of the Infill Loan or conversion of the Infill Grant to an Infill Loan;

(B) A finding that the Borrower or Grantee is in default of its Infill Grant Agreement or Infill Loan Agreement and may be subject to the provisions of paragraph (a)(25);

(C) Notification of state and local entities of Grantee or Borrower's provision of false information; or

(D) The Borrower or Grantee being ineligible for future financing under the CALReUSE program.

(24) Provision that the Borrower or Grantee will be deemed in default of its Infill Grant Agreement or Loan Agreement under any of the following conditions:

(A) Failure of the Borrower or Grantee to comply with the terms of the Infill Loan Agreement or Infill Grant Agreement;

(B) Failure of the Borrower or Grantee to complete the Infill Development Project, as described in the Infill Grant Agreement or Infill Loan Agreement, within the term of the Infill Grant Agreement or Infill Loan Agreement, including any extensions; or

(C) Changes to the Infill Development Project such that it no longer meets the eligibility criteria.

(25) Agreement that upon default, the Borrower(s) or Grantee(s) may be subject to one or more of the following:

(A) A requirement that the Borrower or Grantee repay the loan or grant plus 10% per annum;

(B) The Strategic Partner may invoke its lien on the property;

(C) The Authority may inform other governmental agencies of the default;

(D) The Authority may consider the Borrower or Grantee ineligible for future financing under the program;

(E) A requirement that the Borrower or Grantee make a one time payment of up to 25 percent of the Infill Loan or Infill Grant award; or

(F) The Authority may waive any default upon a finding that it is in the public interest and advances the purposes of the program.

(26) A Provision that the Borrower or Grantee will have a reasonable opportunity to cure before the Borrower or Grantee is deemed in default.

(27) A provision binding the Grantee to make best efforts to collect from any Responsible Party and to convey any payments received to refund the Infill Grant.

(28) Any other provisions agreed to by the parties.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.7. Conditions of Funds Disbursement, Funds Disbursement and Loan Repayment Procedures.

(a) Conditions of Funds Disbursement. The Strategic Partner shall not disburse Infill Grant or Infill Loan funds unless all of the following conditions are met:

(1) All other funds for completing the Brownfield Infill Project are identified and committed for use;

(2) All terms and conditions contained in the commitment letter described in Section 8102.5(f) are satisfied;

(3) Execution of an Infill Loan Agreement, Infill Grant Agreement, promissory note and any other documents, as required, and compliance with all conditions precedent to disbursement contained in the Infill Grant Agreement or Infill Loan Agreement.

(b) Funds Disbursement. The Strategic Partner shall cause funds to be disbursed as follows:

(1) The Borrower or Grantee shall sign and submit to the Strategic Partner a signed invoice documenting the service or procedure performed from entities providing materials and services for Eligible Brownfield Infill Costs covered by the Infill Loan Agreement or Infill Grant Agreement.

(2) Upon receipt of the signed invoice, review and a determination of Eligible Brownfield Infill Costs, the Strategic Partner, shall authorize the disbursement of Infill Loan or Infill Grant funds to the Applicant from the funds of the Authority committed by the Authority for the Infill Grant or Infill Loan.

(3) Disbursements shall be made no more frequently than once per calendar month.

(c) Loan Repayment Procedures. The Strategic Partner shall cause any Infill Loan repayment proceeds received from the Borrower to be delivered promptly upon receipt by the Strategic Partner to the following entities in the following order:

(1) First, to the Authority until the funds advanced by the Authority for the Infill Loan, including any accrued interest, are repaid in full, and

(2) Second, to the Strategic Partner to repay any loan to the Borrower by the Strategic Partner in connection with the Brownfield Infill Project, if applicable.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.8. Infill Loan and Infill Grant Extensions.

(a) Infill Loan or Infill Grant Extensions. Upon written request received from the Applicant, the term of an Infill Loan or Infill Grant may be extended by the Strategic Partner if both of the following conditions are met:

(1) The Applicant clearly demonstrates that it is unable to complete the Brownfield Infill Project or the Infill Development Project by the end of the Infill Loan or Infill Grant term, and

(2) The Applicant clearly demonstrates how the Brownfield Infill Project or Infill Development Project can be completed in the additional time requested.

(b) No Infill Loan or Infill Grant may be extended for more than two years except by the Authority which may grant additional extensions upon a finding that it is in the public interest and furthers the purposes of the program.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2–29–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.9. Strategic Partner Reports and Records Retention.

(a) A Strategic Partner shall provide the following quarterly reports to the Authority:

(1) Applications Received Report. This report shall include the following information:

(A) A listing of identified Brownfield Infill Projects for which Applications have been submitted and for which funding is anticipated during the next six months;

(B) Identification of whether the proposed Brownfield Infill Project meets the various criteria outlined in Section 8102.1(a);

(C) Identification of whether the Strategic Partner is the Applicant;

(D) Requested award amount and type;

(E) Description of the anticipated Infill Development Project, including the total number of housing units created, the number of affordable units and the depth and duration of affordability;

(F) Indication of whether the Brownfield Infill Project is located within an Economically Distressed Community;

(G) Anticipated timeline of completion of the Infill Brownfield Project;

(H) Anticipated timeline of completion of the Infill Development Project;

(I) Previous use of the Brownfield and known contaminants; and

(J) Applicant's identified Oversight Agency.

(2) Request for Funds Report. This report shall include the following information for each Brownfield Infill Project to be funded during the next three months:

(A) A description of the Brownfield Infill Project;

(B) Identification of whether the Brownfield Infill Project meets the various criteria and priorities outlined in Section 8102.1(a);

(C) Identification of whether the Strategic Partner is the Applicant;

(D) Requested Infill Loan or Infill Grant amount for the Brownfield Infill Project;

(E) Description of Eligible Brownfield Infill Project Costs to be funded for the Brownfield Infill Project.

(F) Proposed Infill Loan or Infill Grant term.

(G) Identification of the combined total amount of Infill Grant or Infill Loan funds requested for the quarter.

(3) Brownfield Infill Projects Status Report. This report shall describe the current status of each Brownfield Infill Project for which an Infill Loan and/or Infill Grant (including an Infill Loan and/or Infill Grant for which the Strategic Partner is the Applicant) remains outstanding including:

(A) A description of activities performed at the Brownfield Infill Project for the previous three months.

(B) A statement of whether or not the Strategic Partner has received the Brownfield Remediation Final Report and, if so, a summary of the

Brownfield Remediation Final Report that was received during the previous three months.

(C) A statement of whether the Strategic Partner has received the information required by Section 8102.6.

(4) Outstanding Infill Loans and Infill Grants Report. This report shall describe the current status of every Infill Loan and Infill Grant (including those where the Strategic Partner is the Borrower or Grantee) including:

- (A) Name of the Borrower or Grantee;
- (B) Whether the award is an Infill Grant or an Infill Loan;
- (C) If an Infill Loan, the interest rate on the Infill Loan;
- (D) Whether the Borrower or Grantee is a Small Business;
- (E) Identification of whether the Borrower or Grantee is a Strategic Partner;

(F) Name of Brownfield Infill Project;

(G) Street Address of the Brownfield;

(H) Draws on outstanding Infill Loans and Infill Grants;

(I) Current payments;

(J) Total Infill Loan repayment status;

(K) If the term of any Infill Loan or Infill Grant is extended:

(i) The date of the extension; and

(ii) The current Infill Loan or Infill Grant amount and term.

(5) Other reports and documents as reasonably requested by the Authority.

(b) Brownfield Infill Development Project Status Report. A Strategic Partner shall provide an annual report no later than February 1st of each year to the Authority that shall describe the current status of the development of each Brownfield Infill Project for which an Infill Loan or Infill Grant (including an Infill Loan or Infill Grant where the Strategic Partner is the Applicant) was made including:

(1) A description of the Infill Development Project, including, but not limited to the total number of residential units, densities, the number of affordable units and the depth and duration of the affordability.

(2) A detailed description of development activities performed at the Brownfield for the previous year.

(3) Upon completion of the Infill Development Project, a description of the final use for the property.

(c) Records Retention. A Strategic Partner shall retain the Application, all documents that were submitted by the Applicant with the Application, and all documents pertaining to the Infill Loan or Infill Grant and the Brownfield Infill Project for at least six years after the later of the termination of the Infill Loan or Infill Grant, or the completion of actions and the resolution of all issues, that arise as a result of any litigation, claim, negotiation or audit concerning the Infill Loan Agreement or Infill Grant Agreement executed pursuant to Section 8102.6.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.10. Allocation of Funds to Strategic Partners

(a) In allocating funds to Strategic Partners, the Authority may elect to proceed in a series of funding rounds in which specified amounts will be made available for allocation. In the alternative, the Authority may make the entire amount available for allocation in one continuous process. The Authority will make its decision in this regard known as early as practicable in any calendar year in which funds are available.

(b) Once each quarter following the receipt of the Applications Received Reports from the Strategic Partners, the Authority shall review the Applications Received Reports and make an allocation to each Strategic Partner that shall remain in effect for six (6) months. Upon expiration of the allocation, any unused allocation shall revert to the Authority.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7,

44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.11. Strategic Partner Eligibility and Selection Criteria.

(a) A governmental agency or public or private entity acting alone or in combination with others, shall be eligible to participate as a Strategic Partner and Strategic Partners will be selected by the Authority based upon the following eligibility and selection criteria:

(1) Demonstrated ability to provide Technical Assistance to a Development Entity;

(2) Demonstrated understanding of the economic and real estate development processes specifically as applied to proposed Brownfield Infill Projects and Infill Development Projects;

(3) Demonstrated understanding of environmental assessment and remediation requirements;

(4) Demonstrated understanding of Brownfield regulatory and reporting requirements;

(5) Demonstrated experience in evaluating the economic viability of proposed Brownfield Infill Projects and Infill Development Projects; and

(6) Demonstrated partnership experience.

(b) The services to be provided by a Strategic Partner pursuant to Section 8090(a) hereof shall be provided as an independent contractor pursuant to a written agreement to be entered into by and between the Strategic Partner and the Authority.

(c) An entity may not act as a Strategic Partner as to any Brownfield for which the entity is a responsible party as defined by Section 25323.5 of the California Health and Safety Code. However, as to any such Brownfield, the entity may be an Applicant, or Borrower, and the Authority shall be the Strategic Partner with respect to the Infill Application, Infill Loan.

(d) In addition to or in lieu of contracting with a Strategic Partner, the Authority may at any time elect to act as a Strategic Partner in providing all of the services set forth in Section 8090(a).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 25323.5, 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.12. Strategic Partner as Applicant, Borrower, and/or Grantee.

(a) Notwithstanding any decision to act as a Strategic Partner pursuant to Section 8102.11(d), the following shall apply in all cases where the Strategic Partner is the Applicant, Borrower or Grantee or in the event the Strategic Partner is unable to act relative to an Applicant due to a conflict of interest as defined in the Political Reform Act (Government Code Sections 81000 through 91014):

(1) The Authority shall be the Strategic Partner as to the Infill Application and Infill Grant or Infill Loan.

(2) If the Authority is the Strategic Partner, the Executive Director shall be authorized to:

(A) Determine whether the Applicant shall be eligible for an Infill Loan or Infill Grant pursuant to Section 8102.1.

(B) Review the Infill Application and notify the Applicant pursuant to Section 8102.3 and 8102.5.

(C) Execute the Infill Loan Agreement or Infill Grant Agreement pursuant to Section 8102.4 and 8102.6.

(D) Cause funds to be disbursed to the Applicant pursuant to Section 8102.7.

(E) Determine whether an Infill Loan or Infill Grant shall be extended pursuant to Section 8102.8.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.13. Technical Assistance.

Upon request of an Applicant, Borrower, or Grantee the Strategic Partner may provide Technical Assistance to assist in the remediation of a Brownfield Project.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.14. Scoring Criteria.

All Infill Applications will be scored based upon the following criteria:

- (a) Readiness to Proceed: maximum of 40 points.
 - (1) The Applicant has demonstrated that environmental review can be completed and all necessary entitlements can be received from the local jurisdictions within two years of receiving the award: 10 points.
 - (2) Funding commitments are in place, or financing application are under review, for the Infill Development Project: 10 points.
 - (3) The Infill Development Project has local community and government support: 10 points.
 - (4) Cleanup Plan has been approved by Oversight Agency: 5 points
 - (5) Applicant has building permits, and all other governmental permits (encroachment, right of way, demolition, air quality permits, etc.) in place or under review: 5 points
- (b) Location within an Economically Distressed Community: 30 points
 - (c) Location within a priority development area of a local government entity or regional council of governments: 10 points
 - (d) Depth of Affordability: maximum of 10 Points
 - (1) 50% of Area Median Income: 5 points
 - (2) 40% of Area Median Income: 10 points
 - (e) Percentage of Affordability: maximum of 15 points
 - (1) less than 30% but greater than 15 % of the total number of units: 5
 - (2) more than 30% but less than 50% of the total number of units: 10 points
 - (3) more than 50% of the total number of units: 15 points
 - (f) Utilization of Green Building Methods: 5 points
 - (1) LEED Certified: 5 Points
 - (2) Exceeding Title 24 Standards by 30 percent: 5 points
 - (3) A minimum of 60 GreenPoint Rating points: 5 points
 - (g) The Cleanup Plan for the Brownfield Infill Project does not require Ongoing Operation and Maintenance: 10 points
 - (h) In tie-breaker situations, projects will be prioritized based on their effective use of Infill Grant or Infill Loan dollars, measured by a ratio of the anticipated cost of the Remediation Plan or Cleanup Plan per residential housing unit created.

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

§ 8102.15. Geographic Distribution Targets.

The Brownfield remediation program has the following targets for geographical distribution of funds:

- (a) Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare Counties — ten percent (10%);
- (b) Los Angeles, Imperial, Orange, Riverside, San Bernardino and San Diego Counties — fifty-nine percent (59%);
- (c) All other counties — thirty-one percent (31%).

NOTE: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44506, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a), 44548(b), 53545 and 53545.14, Health and Safety Code.

HISTORY

1. New section filed 2-29-2008 as an emergency; operative 2-29-2008 (Register 2008, No. 9). Pursuant to Health and Safety Code section 44520(b), a Certificate of Compliance must be transmitted to OAL by 8-27-2008 or emergency language will be repealed by operation of law on the following day.

Article 10. Sustainable Communities Grant and Loan Program—Grants

§ 8110. Definitions.

The following definitions shall govern construction of Article 10.

- (a) “Alternative Funding Sources” means the Applicant’s internal sources of funds typically used to fund projects similar to the Applicant’s Project and other state, federal, local or private sources of funds that are be available for similar projects.
- (b) “Applicant” means any county, city and county, or city applying for program funding. The Applicant may partner with a public entity including, but not limited to, a redevelopment agency or joint powers authority.
- (c) “Application” means the information referred to in Section 8112.
- (d) “Authority” means the California Pollution Control Financing Authority, organized and existing under and by virtue of Division 27 (commencing with Section 44500) of the California Health and Safety Code.
- (e) “Economically Distressed” means high unemployment levels, low-income levels, and/or high poverty.
- (f) “Executive Director” means the Executive Director of the California Pollution Control Financing Authority.
- (g) “Eligible Costs” means reasonable and necessary Project costs that may include, but not be limited to, costs associated with any of the following:
 - (1) The planning and implementation processes for programs, plans (e.g., general plans, or portions thereof; specific plans, or portions thereof; alternative transportation studies; finance plans; redevelopment plans; engineering studies; the hiring of consultants to assist in the planning process; or similar type expenses).
 - (2) Costs associated with funding projects such as a community center, park enhancements, or infrastructure improvements that are key elements of a comprehensive community or neighborhood sustainable development project.
 - (3) Costs associated with facilitating public involvement (e.g., public hearings, information meetings, or similar type activities) related to developing policies, programs and projects.
 - (4) Costs associated with hiring technical experts to identify, assess, and complete applications for state, federal and private economic assistance programs that fund sustainable development and sound environmental policies and programs.
 - (5) Travel, telephone, postage and similar administrative expenses directly related to the project.
 - (6) Staff time (including staff training expenses) directly related to the Project.
- (h) “First Priority” means Applicants that establish a case that there exists a Lack of Resources to complete their Projects.
- (i) “Grant” means a grant made in accordance with the procedures set forth in this Article 10.

(j) "Grantee" means an Applicant whose Grant has been approved and has executed a Grant Agreement.

(k) "Grant Agreement" means a written agreement for a Grant entered into between a Grantee and the Authority.

(l) "Ineligible Cost" means funds for expenses associated with:

(1) Work completed prior to Grant funding.

(2) Replacement of otherwise existing sources of funding for existing staff positions.

(m) "Infill Development" means development or redevelopment of unused, underutilized, or existing properties within established urban and/or rural neighborhoods or communities, where those neighborhoods or communities are already served with streets, water, sewer and other public services.

(n) "Lack of Resources" means that Alternative Funding Sources are unavailable to fund all, or a portion, of the Project for which program funds are being sought as demonstrated by an Applicant pursuant to section 8112(d)(2) hereof.

(o) "Outside Reviewer" means an individual that meets all of the following requirements:

(1) Does not have any direct or beneficial interest in real property located in any Project Area(s) included in an Application;

(2) Is not the owner or employee of, the holder of a management position in, or in receipt of or in expectation of the receipt of income from any entity located, or otherwise having any business or property interest in any Project Area(s) included in an Application;

(3) Does not accept, or agree to accept, any payment that is in any way contingent upon the outcome of a report, evaluation, assessment, analysis, or award of a Grant or Loan in connection with an Application.

(p) "Project" means the Applicant's proposal for one or more of the following:

(1) Developing and implementing policies, programs and projects that reduce pollution hazards and the degradation of the environment within existing neighborhoods/communities;

[The next page is 266.21.]

(2) Assisting one or more California neighborhoods that are Economically Distressed;

(3) Promoting Infill Development.

(q) "Project Area" means a defined geographical area for which an Applicant proposes a Project or which the Applicant demonstrates will benefit from the Project.

(r) "Project Period" means a defined beginning and end date for implementation of the Project by which time all program funds must be expended.

(s) "Sustainable Development" means a Project that meets one or more of the following objectives:

(1) Develops and implements growth policies, programs and projects that reduce pollution hazards and the degradation of the environment;

(2) Promotes Infill Development;

(3) Promotes economic development within Economically Distressed communities;

(4) Promotes land use and policies, programs and projects that support alternative transportation options;

(5) Ensures a proper mix of business and housing, including affordable housing, in communities and neighborhoods;

(6) Balances job growth with new housing;

(7) Encourages communities centered around civic spaces;

(8) Ensures more efficient, well-planned higher density use of land; and

(9) Protects environmental resources.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New article 10 (sections 8110-8117) and section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8111. Funding Eligibility.

(a) An Applicant may be eligible to receive funding when the Authority determines that:

(1) The Applicant has submitted an Application that meets the requirements of Section 8112.

(2) The Applicant proposes a Project;

(3) The funds are requested to finance Eligible Costs associated with a Project;

(4) The Applicant demonstrates the ability to gather likely sources of capital to complete the Project.

(5) The Applicant receives a minimum passing score as set forth in section 8113(d) hereof.

(b) Applicants may submit only one Application for program funds.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8112. Project Application Content.

The Application shall include all of the following information:

(a) An Application checklist that generally describes the type and order of information that must be provided to ensure that the Applicant submits a complete Application package.

(b) An Application cover sheet with:

(1) The Project name;

(2) Applicant information including (a) Applicant name(s), address(es), telephone numbers and (b) contact person name, title and telephone numbers;

(3) Project location information including city, county, zip code and Project Area descriptions including Project site address(es), if applicable;

(4) Funding information including requested funding amount, type of funding requested (i.e., Grant and/or Loan), other non-program funding amount(s) and total cost of Project; and

(5) Applicant certification that declares under the penalty of perjury that the information contained in the Application, exhibits, and attachments is true and correct to the best of Applicant's knowledge and belief and that Applicant understands that misrepresentation may result in the cancellation of the approved funding, and other actions, which the Authority may take.

(6) A statement that the Authority reserves the right to request additional information for its review.

(c) A Project description that includes (a) a description of the Project's expected outcomes and benefits and (b) cross-references to any supporting documentation, such as plans, pictures, drawings or other relevant information, included with the Application.

(d) An eligibility and funding priority worksheet that:

(1) Includes a description of which eligibility criteria the Project meets and how the Project qualifies under the criteria described in section 8110(p) hereof; and

(2) Includes a description of whether there exists a Lack of Resources to develop and implement sustainable development and other sound environmental policies, programs and projects. In order to receive funding priority, Applicants must make a case as to the reason(s) that Alternative Funding Sources are not available, or are insufficient, for the Project by describing:

(A) any Alternative Funding Sources that may ordinarily be available for the Project and the actions that have been taken to access such Alternative Funding Sources for the Project and

(B) why Alternative Funding Sources are unavailable or are insufficient for the Project.

(e) Project evaluation information with supporting documentation that:

(1) Describes how the Project promotes one or more Sustainable Development objectives (75 points).

(2) Describes how the Project promotes economic development within Economically Distressed communities (30 points) including:

(A) whether the project creates, or assists in creating employment for existing residents;

(B) whether the project improves the infrastructure and or the quality of life of the community/neighborhood to enhance its economic competitiveness;

(C) whether the project builds on or establishes relationships with local employment and training entities (e.g. One Stop Career Center, Pilot Regional Collaborative under the Regional Workforce Preparation and Economic Development Act, Workforce Investment Board, the Employment Development Department, and others) to link local job seekers with employment opportunities.

(3) Describes how the Project incorporates creative approaches (15 points) including:

(A) whether the Project provides a creative solution to an existing or a projected problem or demonstrates a new or innovative approach to planning and/or implementation;

(B) whether the Project involves multiple jurisdictions (more than one county or city, or federal, state, regional, or local government); and

(C) a description of any other creative features of the expected outcome(s) of the Project.

(4) Describes the likelihood that the Project's expected outcomes will be implemented (15 points) including:

(A) Identification and discussion of the financial feasibility, the practicality, the timing and the probability of implementing the Project's expected outcomes (e.g., the plan, idea or strategy being advanced by the Project); and

(B) Identification of community support for the Project's expected outcomes. This may include letters of support from community interests and co-sponsors that specifically reference community needs and the expected impacts of the Project. It may also include news articles, petitions, and any other representative information.

(5) A description of how the Project demonstrates applicability to other communities by identifying the applicability and transferability of the proposed Project elements to other communities (15 points).

(f) Project budget sheet that identifies all Eligible Costs and Ineligible Costs for the proposed Project including:

- (1) Identifying the cost category;
- (2) A description of the activities associated with the cost;
- (3) Indication of whether the cost will be paid from program funding and/or Alternative Funding Sources;
- (4) Indication of total cost(s) for that category.
- (g) A detailed Project timeline for implementing and completing the proposed Project. The timeline should identify the activities, benchmarks, and products to be produced.

(h) Complete resumes of all staff and/or consultants who will be involved in implementing the Project described in the Application.

(i) Supporting Project documentation (maps, surveys, reports, etc.).

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8113. Application Availability and Submission, Project Selection Process and Project Evaluation Process.

(a) Application Availability. The Application shall contain the information set forth in Section 8112.

(b) Application Submission. Applications must be submitted in duplicate to the Authority by the application deadlines published by the Authority. The first Application deadline shall occur in June 2002; thereafter, Application deadlines shall occur at least on a semi-annual basis until program funding is exhausted.

(c) Project Selection Process. Authority staff shall:

(1) First determine if the Application meets the First Priority for funding.

(2) Next screen applications that meet the First Priority threshold to determine:

- (A) Applicant eligibility, and
- (B) Project eligibility.
- (3) Evaluate and rank on a competitive basis Applications designated First Priority per the criteria in section (d) hereof. Authority staff may include additional Outside Reviewers to assist with scoring Applications.

(4) Screen and evaluate Applications not designated as First Priority as follows:

(A) After Applications that satisfy the First Priority designation are evaluated and ranked per subsection (c)(3) hereof and

(B) If Authority staff's funding recommendations to the Authority board for First Priority Applicants do not exceed the maximum funding availability for the program. If additional funding is available, the remaining Applications will be screened to determine Applicant and Project eligibility and will be evaluated as described in subsection (c)(3) above.

(d) Project Evaluation Process. Authority staff shall evaluate and score Applications on a competitive basis. Each Application will be evaluated based on how well the project:

(1) Demonstrates Sustainable Development—75 points (50% of Score);

(2) Contributes to economical development within Economically Distressed communities—30 points (20% of Score);

(3) Incorporates creative approaches—15 points (10% of Score);

(4) Demonstrates likelihood that the Project's expected outcome(s) will be implemented—15 points (10% of Score); and

(5) Demonstrates applicability to other communities—15 points (10% of Score).

Projects must receive a minimum score of 70% (i.e., receive at least 105 of 150 points) to receive funding. Those Projects that receive a score of less than 70% will be ineligible to receive any funding.

(e) All Applications that receive a minimum score of 70% as evaluated by Authority staff shall be submitted to the Executive Director who will determine which Projects to recommend to the Authority for funding based on the Authority staff's evaluation. The Executive Director shall notify the Applicant by fax that either:

(1) The Applicant's Project will be recommended for grant funding to the Authority; or

(2) The Applicant's Project will not be recommended for grant funding to the Authority.

(f) The Authority staff may invite Outside Reviewers to review, evaluate and score Applications pursuant to this section. To the extent Outside Reviewers are utilized, no fewer than two Outside Reviewers will review any one Application.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8114. Authority Approval and Commitment Letter.

(a) Authority Approval. No later than ninety (90) days following receipt of an Application, the Executive Director will determine which Projects to recommend to the Authority for grant funding pursuant to section 8113(e) hereof. The Authority shall make the final determination as to which Applications will receive program funding. The Authority shall notify each Applicant whether or not its Application has been approved for funding.

(b) Commitment Letter. If funding is approved, the Authority shall notify the Applicant by a letter committing the Authority to provide Grant funds so long as the Applicant strictly complies with the terms and conditions contained therein. The commitment letter shall include all of the following:

- (1) Name(s) of the Grantee.
- (2) Grant amount and term.
- (3) A description of Eligible Costs to be financed.
- (5) Disbursement process, including a statement that proceeds shall be disbursed on a reimbursement basis.
- (6) Conditions and covenants.
- (7) The date when the commitment expires.
- (8) Such other items as may relate specifically to a Project and/or Applicant.

(9) A statement that the Authority reserves the right to modify or cancel the commitment upon failure of the Applicant to execute a Grant Agreement that includes all of the terms and conditions set forth in the commitment letter, or if the Authority becomes aware of any matter which, if known at the time of Application review or approval, would have resulted in the Application not being approved.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8115. Grant Agreements.

The terms and conditions of a Grant shall be set forth in a Grant Agreement executed by the Borrower and shall include all of the following terms and conditions:

- (a) A Grant amount not greater than three hundred fifty thousand dollars (\$350,000) for Eligible Costs with respect to a Project;
- (b) A Grant disbursement period not to exceed thirty-six (36) months from the execution date of the Grant Agreement;
- (c) Disbursement procedures pursuant to Section 8116;
- (d) A provision that any unused Grant funds shall revert to the Authority;
- (e) Agreement to comply with the Authority's program statutes and regulations;
- (f) Agreement that the Grantee will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant, the Project or this program;
- (g) Agreement to comply with laws outlawing discrimination including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;
- (h) Agreement that continued compliance with program requirements is the Grantee's responsibility;
- (i) Agreement that the Grant shall only be used for Eligible Costs as described in the Grantee's Application;
- (j) Any other provision agreed to by the parties.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8116. Conditions of Funds Disbursement, Funds Disbursement.

(a) Conditions of Funds Disbursement. The Authority shall not disburse funds unless the Applicant has executed a Grant Agreement and any other documents, as required to verify to the satisfaction of the Authority any information asserted in the Applicant's Application, and is in compliance with all conditions precedent to disbursement contained in the aforementioned agreement.

(b) Funds Disbursement. The Authority shall cause funds to be disbursed as follows:

- (1) For Eligible Costs covered by the Grant Agreement, the Grantee shall sign and submit to the Authority either:
 - (a) a signed invoice documenting the service or procedure performed from entities providing materials and services, or
 - (b) documentation of pending expenditure to receive funds on a prospective basis
- (2) Upon receipt of the documentation described in subsection (b)(1) hereof, the Authority, in its sole discretion, shall authorize the disbursement of funds to the Grantee.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8117. Reports, Certificate of Completion and Records Retention.

(a) Reports. A Grantee shall provide quarterly status reports to the Authority that shall include:

- (1) A description of activities performed for the Project for the previous three months;
- (2) An estimated time schedule for completion of the Project;
- (3) A description of remaining work to be completed for the Project; and
- (4) A description of whether the Project is meeting the proposed budget and if not the reasons for any differences and what actions will be taken to insure that the Project will be completed.

(b) Certificate of Completion. Upon completion of the Project, a Grantee shall certify to the Authority that the Project is complete and provide a final report that describes the result(s) of the Project.

(c) Records Retention. Recipients shall retain all program and financial data necessary to substantiate the purposes for which the funds were spent for a period of three years after the certification of completion of the project has been submitted. Recipients shall provide supporting documentation (e.g. progress reports, project work plan, program budget, receipts, etc.) upon request to the Authority staff.

NOTE: Authority cited: Section 44520(a), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-10-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

Article 11. Sustainable Communities Grant and Loan Program—Loans

§ 8118. Definitions.

The following definitions shall govern construction of Article 11.

(a) "Alternative Funding Sources" means the Applicant's internal sources of funds typically used to fund projects similar to the Applicant's Project and other state, federal, local or private sources of funds that are available for similar projects.

(b) "Applicant" means any county, city and county, or city applying for program funding. The Applicant may partner with a public entity including, but not limited to, a redevelopment agency or joint powers authority.

(c) "Application" means the information referred to in Section 8120.

(d) "Authority" means the California Pollution Control Financing Authority, organized and existing under and by virtue of Division 27 (commencing with Section 44500) of the California Health and Safety Code.

(e) "Borrower" means an Applicant whose Loan has been approved and who has executed a Loan Agreement.

(f) "Economically Distressed" means high unemployment levels, low-income levels, and/or high poverty.

(g) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority.

(h) "Eligible Costs" means reasonable and necessary Project costs that may include, but not be limited to, costs associated with any of the following:

(1) The planning and implementation processes for programs, plans (e.g., general plans, or portions thereof; specific plans, or portions thereof; alternative transportation studies; finance plans; redevelopment plans; engineering studies; the hiring of consultants to assist in the planning process; or similar type expenses).

(2) Costs associated with funding projects such as a community center, park enhancements, or infrastructure improvements that are key ele-

ments of a comprehensive community or neighborhood sustainable development project.

(3) Costs associated with facilitating public involvement (e.g., public hearings, information meetings, or similar type activities) related to developing policies, programs and projects.

(4) Costs associated with hiring technical experts to identify, assess, and complete applications for state, federal and private economic assistance programs that fund sustainable development and sound environmental policies and programs.

(5) Travel, telephone, postage and similar administrative expenses directly related to the project.

(6) Staff time (including staff training expenses) directly related to the Project.

(i) "First Priority" means Applicants that establish a case that there exists a Lack of Resources to complete their Projects.

(j) "Ineligible Cost" means funds for expenses associated with:

(1) Work completed prior to loan funding.

(2) Replacement of otherwise existing sources of funding for existing staff positions.

(k) "Infill Development" means development or redevelopment of unused, underutilized, or existing properties within established urban and/or rural neighborhoods or communities, where those neighborhoods or communities are already served with streets, water, sewer and other public services.

(l) "Lack of Resources" means that Alternative Funding Sources are unavailable to fund all, or a portion, of the Project for which program funds are being sought as demonstrated by an Applicant pursuant to section 8120(d)(2) hereof.

(m) "Loan" means a loan made in accordance with the procedures set forth in this Article 11.

(n) "Loan Agreement" means a written agreement for a Loan entered into between a Borrower and the Authority.

(o) "Outside Reviewer" means an individual that meets all of the following requirements:

(1) Does not have any direct or beneficial interest in real property located in any Project Area(s) included in an Application

(2) Is not the owner or employee of, the holder of a management position in, or in receipt of or in expectation of the receipt of income from any entity located, or otherwise having any business or property interest in any Project Area(s) included in an Application;

(3) Does not accept, or agree to accept, any payment that is in any way contingent upon the outcome of a report, evaluation, assessment, analysis, or award of a Grant or Loan in connection with an Application.

(p) "Project" means the Applicant's proposal for one or more of the following:

(1) Developing and implementing policies, programs and projects that reduce pollution hazards and the degradation of the environment within existing neighborhoods/communities;

(2) Assisting one or more California neighborhoods that are Economically Distressed;

(3) Promoting Infill Development.

(q) "Project Area" means a defined geographical area for which an Applicant proposes a Project or which the Applicant demonstrates will benefit from the Project.

(r) "Project Period" means a defined beginning and end date for implementation of the Project by which time all program funds must be expended.

(s) "Sustainable Development" means a Project that meets one or more of the following objectives:

(1) Develops and implements growth policies and programs that reduce pollution hazards and the degradation of the environment;

(2) Promotes Infill Development to revitalize communities;

(3) Promotes economic development within Economically Distressed communities;

(4) Promotes land use policies, programs and projects that support alternative transportation options;

(5) Ensures a proper mix of business and housing, including affordable housing, in communities and neighborhoods;

(6) Balances job growth with new housing;

(7) Encourages communities centered around civic spaces;

(8) Ensures more efficient, well-planned higher density use of land; and

(9) Protects environmental resources.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New article 11 (sections 8118–8125) and section filed 5–13–2002 as an emergency; operative 5–13–2002 (Register 2002, No. 20). A Certificate of Compliance must be transmitted to OAL by 11–12–2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5–13–2002 order transmitted to OAL 7–31–2002 and filed 9–12–2002 (Register 2002, No. 37).

§ 8119. Funding Eligibility.

(a) An Applicant may be eligible to receive funding when the Authority determines that:

(1) The Applicant has submitted an Application that meets the requirements of Section 8120.

(2) The Applicant proposes a Project;

(3) The funds are requested to finance Eligible Costs associated with a Project;

(4) The Applicant demonstrates the ability to gather likely sources of capital to complete the Project.

(5) The Applicant receives a minimum passing score as set forth in section 8121 hereof.

(b) Applicants may submit only one Application for program funds.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5–13–2002 as an emergency; operative 5–13–2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11–12–2002 or emergency language will be repealed by operation of law on the following day.

2. Editorial correction adding inadvertently omitted HISTORY 1 (Register 2002, No. 37).

3. Certificate of Compliance as to 5–13–2002 order transmitted to OAL 7–31–2002 and filed 9–12–2002 (Register 2002, No. 37).

§ 8120. Project Application Content.

The Application shall include all of the following information:

(a) An Application checklist that generally describes the type and order of information that must be provided to ensure that the Applicant submits a complete Application package.

(b) An Application cover sheet with:

(1) The Project name;

(2) Applicant information including (a) Applicant name, address, telephone numbers and (b) contact person name, title and telephone numbers;

(3) Project location information including city, county, zip code, Project Area descriptions and Project site address(es), if applicable;

(4) Funding information including requested funding amount, type of funding requested (i.e., Grant and/or Loan), other non-program funding amount(s) and total cost of Project; and

(5) Applicant certification that declares under the penalty of perjury that the information contained in the Application, exhibits, and attachments is true and correct to the best of Applicant's knowledge and belief and that Applicant understands that misrepresentation may result in the cancellation of the approved funding, and other actions, which the Authority may take.

(6) A statement that the Authority reserves the right to request additional information for its review.

(c) A Project description that includes (a) a description of the Project's expected outcomes and benefits and (b) cross-references to any supporting documentation, such as plans, pictures, drawings or other relevant information, included with the Application.

(d) An eligibility and funding priority worksheet that:

(1) Includes a description of which eligibility criteria the Project meets and how the Project qualifies under the criteria described in section 8118(p) hereof; and

(2) Includes a description of whether there exists a Lack of Resources to develop and implement sustainable development and other sound environmental policies, programs and projects. In order to receive funding priority, Applicants must make a case as to the reason(s) that Alternative Funding Sources are not available, or are insufficient, for the Project by describing:

(A) any Alternative Funding Sources that may ordinarily be available for the Project and the actions that have been taken to access such Alternative Funding Sources for the Project and

(B) why Alternative Funding Sources are unavailable or are insufficient for the Project.

(e) Project evaluation information with supporting documentation that:

(1) Describes how the Project promotes one or more Sustainable Development objectives (75 points).

(2) Describes how the Project promotes economic development within Economically Distressed communities (30 points) including:

(A) whether the project creates, or assists in creating employment for existing residents;

(B) whether the project improves the infrastructure and or the quality of life of the community/neighborhood to enhance its economic competitiveness;

(C) whether the project builds on or establishes relationships with local employment and training entities (e.g. One Stop Career Center, Pilot Regional Collaborative under the Regional Workforce Preparation and Economic Development Act, Workforce Investment Board, the Employment Development Department, and others) to link local job seekers with employment opportunities.

(3) Describes how the Project incorporates creative approaches (15 points) including:

(A) whether the Project provides a creative solution to an existing or a projected problem or demonstrates a new or innovative approach to planning;

(B) whether the Project involves multiple jurisdictions (more than one county or city, or federal, state, regional, or local government); and

(C) a description of any other creative features of the expected outcome(s) of the Project.

(4) Describes the likelihood that the Project's expected outcomes will be implemented (15 points) including:

(A) Identification and discussion of the financial feasibility, the practicality, the timing and the probability of implementing the Project's expected outcomes (e.g., the plan, idea or strategy being advanced by the Project).

(B) Identification of community support for the Project's expected outcomes. This may include letters of support from community interests and co-sponsors that specifically reference community needs and the expected impacts of the Project. It may also include news articles, petitions, and any other representative information.

(5) A description of how the Project demonstrates applicability to other communities by identifying the applicability and transferability of the proposed Project elements to other communities (15 points).

(f) Project budget sheet that identifies all Eligible Costs and Ineligible Costs for the proposed Project including:

(1) Identifying the cost category;

(2) A description of the activities associated with the cost;

(3) Indication of whether the cost will be paid from program funding and/or Alternative Funding Sources;

(4) Indication of total cost(s) for that category.

(g) A detailed Project timeline for implementing and completing the proposed Project. The timeline should identify the activities, benchmarks, and products to be produced.

(h) Complete resumes of all staff and/or consultants who will be involved in implementing the Project described in the Application.

(i) Supporting Project documentation (maps, surveys, reports, etc.).

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8121. Application Availability and Submission, Project Selection Process and Project Evaluation Process.

(a) Application Availability. The Application shall contain the information set forth in Section 8120.

(b) Application Submission. Applications must be submitted in duplicate to the Authority by the application deadlines published by the Authority. The first Application deadline shall occur in June 2002; thereafter, Application deadlines shall occur at least on a semi-annual basis until program funding is exhausted.

(c) Project Selection Process. Authority staff shall:

(3) First determine if the Application meets the First Priority for funding.

(4) Next screen applications that meet the First Priority threshold to determine:

(A) Applicant eligibility, and

(B) Project eligibility.

(3) Evaluate and rank on a competitive basis Applications designated First Priority per the criteria in section (d) hereof. Authority staff may include additional Outside Reviewers to assist with scoring Applications.

(4) Screen and evaluate Applications not designated as First Priority as follows:

(A) After Applications that satisfy the First Priority designation are evaluated and ranked per subsection (c)(3) hereof and

(B) if Authority staff's funding recommendations to the Authority board for First Priority Applicants do not exceed the maximum funding availability for the program. If additional funding is available, the remaining Applications will be screened to determine Applicant and Project eligibility and will be evaluated as described in subsection (c)(3) above.

(d) Project Evaluation Process. Authority staff shall evaluate and score Applications on a competitive basis. Each Application will be evaluated based on how well the project:

(1) Demonstrates Sustainable Development—75 points (50% of Score);

(2) Contributes to economical development within Economically Distressed communities—30 points (20% of Score);

(3) Incorporates creative approaches—15 points (10% of Score);

(4) Demonstrates likelihood that the Project's expected outcome(s) will be implemented—15 points (10% of Score);

(5) Demonstrates applicability to other communities—15 points (10% of Score); and

Projects must receive a minimum score of 70% (i.e., receive at least 105 of 150 points) to receive funding. Those Projects that receive a score of less than 70% will be ineligible to receive any funding.

(e) All Applications that receive a minimum score of 70% as evaluated by Authority staff shall be submitted to the Executive Director who will determine which Projects to recommend to the Authority for funding based on the Authority staff's evaluation. The Executive Director shall notify the Applicant by fax that either:

(1) The Applicant's Project will be recommended for loan funding to the Authority; or

(2) The Applicant's Project will not be recommended for loan funding to the Authority.

(f) The Authority staff may invite Outside Reviewers to review, evaluate and score Applications pursuant to this section. To the extent Outside Reviewers are utilized, no fewer than two Outside Reviewers will review any one Application.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8122. Authority Approval and Commitment Letter.

(a) Authority Approval. No later than ninety (90) days following receipt of an Application, the Executive Director will determine which Projects to recommend to the Authority for loan funding pursuant to section 8121(e) hereof. The Authority shall make the final determination as to which Applications will receive program funding. The Authority shall notify each Applicant whether or not its Application has been approved for funding.

(b) Commitment Letter. If funding is approved, the Authority shall notify the Applicant by a letter committing the Authority to provide Loan funds so long as the Applicant strictly complies with the terms and conditions contained therein. The commitment letter shall include all of the following:

- (1) Name(s) of the Borrower.
- (2) Loan amount and term.
- (3) A description of Eligible Costs to be financed.
- (4) Disbursement process, including a statement that proceeds shall be disbursed on a reimbursement basis.
- (5) Conditions and covenants.
- (6) The date when the commitment expires.
- (7) Such other items as may relate specifically to a Project and/or Applicant.
- (8) A statement that the Authority reserves the right to modify or cancel the commitment upon failure of the Applicant to execute a Loan Agreement that includes all of the terms and conditions set forth in the commitment letter, or if the Authority becomes aware of any matter which, if known at the time of Application review or approval, would have resulted in the Application not being approved.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8123. Loan Agreements.

The terms and conditions of a Loan shall be set forth in a Loan Agreement executed by the Borrower and shall include all of the following terms and conditions:

- (a) A Loan amount not greater than one hundred fifty thousand dollars (\$150,000) for Eligible Costs with respect to a Project;
- (b) A Loan disbursement period not to exceed thirty-six (36) months from the execution date of the Loan Agreement;
- (c) A Loan term not to exceed sixty (60) months;
- (d) A Loan interest rate that bears zero (0%) interest;
- (e) Full repayment of the Loan will be due at maturity with no prepayment penalties;
- (f) Disbursement procedures pursuant to Section 8124;

(g) A provision that any unused Loan funds shall revert to the Authority;

(h) Agreement to comply with the Authority's program statutes and regulations;

(i) Agreement that the Borrower will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Loan, the Project or this program;

(j) Agreement to comply with laws outlawing discrimination including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;

(k) Agreement that continued compliance with program requirements is the Borrower's responsibility;

(l) Agreement that the Loan shall only be used for Eligible Costs as described in the Borrower's Application;

(m) Any other provision agreed to by the parties.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8124. Conditions of Funds Disbursement, Funds Disbursement.

(a) Conditions of Funds Disbursement. The Authority shall not disburse funds unless the Applicant has executed a Loan Agreement and any other documents, as required to verify to the satisfaction of the Authority any information asserted in the Applicant's Application, and is in compliance with all conditions precedent to disbursement contained in the aforementioned agreement.

(b) Funds Disbursement. The Authority shall cause funds to be disbursed as follows:

(1) For Eligible Costs covered by the Loan Agreement, the Borrower shall sign and submit to the Authority either:

- (a) a signed invoice documenting the service or procedure performed from entities providing materials and services, or
- (b) documentation of pending expenditure to receive funds on a prospective basis

(2) Upon receipt of the documentation described in subsection (b)(1) hereof, the Authority, in its sole discretion, shall authorize the disbursement of funds to the Borrower.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

§ 8125. Reports, Certificate of Completion and Records Retention.

(a) Reports. A Borrower shall provide a quarterly status report to the Authority that shall include:

- (1) A description of activities performed for the Project for the previous three months;
 - (2) An estimated time schedule for completion of the Project;
 - (3) A description of remaining work to be completed for the Project;
- and

(4) A description of whether the Project is meeting the proposed budget and if not the reasons for any differences and what actions will be taken to insure that the Project will be completed.

(b) Certificate of Completion. Upon completion of the Project, a Grantee shall certify to the Authority that the Project is complete and provide a final report that describes the result(s) of the Project.

(c) Records Retention. Recipients shall retain all program and financial data necessary to substantiate the purposes for which the funds were spent for a period of three years after the certification of completion of the project has been submitted. Recipients shall provide supporting documentation (e.g. progress reports, project work plan, program budget, receipts, etc.) upon request to the Authority staff.

NOTE: Authority cited: Sections 44520(a) and 44520(c), Health and Safety Code. Reference: Sections 44501, 44502, 44526(g) and 44526(i), Health and Safety Code.

HISTORY

1. New section filed 5-13-2002 as an emergency; operative 5-13-2002 (Register 2002, No. 20). Pursuant to Health and Safety Code section 44520(c) a Certificate of Compliance must be transmitted to OAL by 11-12-2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-13-2002 order transmitted to OAL 7-31-2002 and filed 9-12-2002 (Register 2002, No. 37).

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Title 4. Business Regulations

Division 12. California Educational Facilities Authority

Vol. 5

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Division 12. California Educational Facilities Authority

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Division 12. California Educational Facilities Authority

(Originally Printed 2-2-74)

Chapter 1. General Provisions

Article 1. Definitions

§ 9001. Terms.

The following terms shall be used in the manner described below, when used in this Division, except as otherwise provided.

(a) "Act" means California Educational Facilities Authority Act, Division 10, Part 59, Chapter 2, commencing with Section 94100 of the Education Code.

(b) "Authority" or CEFA means the California Educational Facilities Authority.

(c) "Chairman" means the Chairman of the California Educational Facilities Authority.

(d) "Vice Chairman" means the Vice Chairman of the California Educational Facilities Authority.

(e) "Member" means a member of the California Educational Facilities Authority.

(f) "Executive Director" means the Executive Director of the California Educational Facilities Authority.

(g) "Authority Fund" means the California Educational Facilities Authority Fund.

(h) "Accreditation" means written evidence that the applicant is currently accredited by the Western Association of Schools and Colleges, or the Committee of the Bar Examiners of the State Bar or the American Bar Association.

(i) "Request" means the application form and documents related thereto on which the Authority accepts requests for financing.

(j) "Applicant" means the private college requesting participation of the Authority in undertaking the financing of a project.

NOTE: Authority cited: Section 94140, Education Code. Reference: Sections 94100 and 94110, Education Code.

HISTORY

1. Amendment of subsection (h) filed 4-12-74; effective thirtieth day thereafter (Register 74, No. 15).
2. Amendment of subsection (a) filed 3-11-77 as procedural and organizational; designated effective 4-30-77 (Register 77, No. 11).
3. Redesignation of former article 1 as new chapter 1, renumbering of former articles 2-4 to articles 1-3, and renumbering of former sections 9020-9048 to sections 9001-9027; renumbering of former section 9020 to section 9001, including amendment of section and new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43). For prior history of sections 9001, 9040, 9042, 9044, 9046 and 9048, see Register 85, No. 26.

Article 2. Procedures Relating to the Authority of Officers and Members

§ 9005. Officers and Members.

(a) (Reserved).

(b) Should a vacancy occur in the office of the Chairman or Vice Chairman, the Authority shall at its next meeting elect one of its members to fill such vacancy.

NOTE: Authority cited: Section 94140, Education Code. Reference: Sections 94100 and 94110, Education Code.

HISTORY

1. Amendment of subsection (a) filed 3-11-77 as procedural and organizational; designated effective 4-30-77 (Register 77, No. 11).

2. Order of Repeal of subsections (a) and (c) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
3. Renumbering of former article 3 to article 2 and renumbering of former section 9030 to section 9005 with new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43). For prior history of section 9001, see Register 85, No. 26.

§ 9006. Meetings.

Meetings will be held as follows:

(a) Regular meetings of the Authority will be held on the fourth Thursday of each month at Sacramento, California unless otherwise ordered by the Authority.

(b) Special meetings of the Authority may be called by the Chairman upon giving notice to each member.

(c) Meetings of the Authority shall be held at the place designated by the Chairman in the notice calling such meeting unless otherwise ordered or agreed to by the Authority.

(d) The Chairman shall preside at all meetings of the Authority. In the absence of the chairman and his deputy, if any, the Vice Chairman or his or her deputy, if any shall preside. If the Chairman, the Vice Chairman and their deputies are absent from a meeting, the members present constituting a quorum shall elect one of their number to preside at said meeting. Nothing in this regulation shall be construed to prohibit the Chairman from requesting the Vice Chairman to preside at a meeting of the Authority.

NOTE: Authority cited: Section 94140, Education Code. Reference: Sections 94100 and 94110, Education Code.

HISTORY

1. Order of Repeal of subsections (e) and (f) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
2. Renumbering and amendment of former section 9031 to section 9006 with new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9007. Employees.

Responsibilities and duties of employees are as follows:

(a) The Authority may employ an Executive Director to serve at the pleasure of the Authority.

(b) The Authority may employ an Assistant Executive Director to serve at the pleasure of the Authority. In the absence of the Executive Director, the Assistant Executive Director will assume all the powers, duties, and responsibilities of the Executive Director.

(c) The Executive Director is responsible for developing the meeting agenda and for distributing the agenda to members and other parties.

(d) The Executive Director is responsible for recording the minutes of each meeting and for presenting minutes at the subsequent meeting for approval by the Authority.

(e) The Executive Director shall act as secretary of the Authority and execute, on behalf of the Authority, certificates and other documents attesting to the acts of the Authority.

(f) The Executive Director shall be the appointing power of the Authority. He or she may execute on its behalf all contracts or agreements, and may perform such other duties as the Authority may direct.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94140, Education Code.

HISTORY

1. Amendment of subsection (b) filed 2-26-75 as an emergency; effective upon filing (Register 75, No. 9).
2. Certificate of Compliance filed 4-29-75 (Register 75, No. 18).
3. Renumbering and amendment of former section 9032 to section 9007 with new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

Article 3. General Provisions Relating to Authority Actions

§ 9025. Requests for Financing.

The Authority will accept requests for financing on a form prepared by the Executive Director, or copies therefrom. Request for Financing

forms may be obtained by writing to the Authority office in the City of Sacramento.

NOTE: Authority cited: Section 94140, Education Code. Reference: Sections 94100 and 94125, Education Code.

HISTORY

1. Renumbering of former article 4 to article 3 and renumbering and amendment of former section 9041 to section 9025 with new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9027. General Fees.

The Authority may charge fees for its reasonable and necessary administrative and program expenses. The applicant shall reimburse the Authority for all reasonable and necessary out-of-pocket expenses which the Authority may incur at the applicant's request, and all other expenses of the Authority, direct and indirect, and properly allocable to the proposed financing. Unless paid from the proceeds of bonds, all such fees allocable to a particular proposed financing shall be paid by the applicant. Such fees will be deposited in the Authority Fund.

NOTE: Authority cited: Section 94140, Education Code. Reference: Sections 94100 and 94125, Education Code.

HISTORY

1. Renumbering and amendment of former section 9043 to section 9027 with new NOTE filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

Chapter 2. The CEFA Academic Assistance Grant Program

§ 9050. Definitions.

The following words and phrases, as used in this Chapter, are defined as follows:

(a) "Academic Assistance" may include, but is not limited to, services that inform pupils attending a Qualified School of the benefits of, and the requirements for, higher education to any four year, degree granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level. These services may include assistance with 1) developing career plans, 2) making educational plans including plans for secondary school graduation and higher education, and 3) selecting appropriate courses to meet an educational plan or academic requirements. These services may also include providing workshops or individualized assistance that help pupils attending a Qualified School apply to and prepare for a range of public and non-public higher educational opportunities and that assist pupils prepare for college entrance examinations, obtain and complete college entrance applications or forms, and obtain and complete financial aid applications.

(b) "Academic Enrichment" may include, but is not limited to, any of the following services that develop skills and experiences to support the transition of pupils attending a Qualified School to the college learning environment: 1) assistance with academic subjects, such as reading, math, and science, 2) assistance with study and test preparation skills, and 3) enrichment programs (such as going to museums and lectures), college campus visits, on-campus summer programs and workshops on college life.

(c) "Act" means Article 9 (Commencing with Section 94215) of Chapter 2 of Part 59 of Division 10 of the Education Code.

(d) "Actual Expenditures for Program in Most Recent Year" means the total direct and indirect costs of the program that were paid by the Applicant in the most recent fiscal-year.

(e) "Administrative Costs" means actual costs incurred by the Authority and other state agencies as permitted by law for administering the CEFA Academic Assistance Grant Program.

(f) "Allocation" means the amount of funds awarded to an Applicant by the Authority.

(g) "Applicant" means either one of the following:

- (1) An individual Private College that submits to the Authority an application for a grant award.

(2) Two or more eligible Private Colleges that have entered into an intercollege agreement for the purposes of the Act to offer grant eligible programs and that submit to the Authority an application for a grant award.

(h) "Application Form" means the request by an Applicant to the Authority for a Grant under the CEFA Academic Assistance Grant Program which includes pages 1-9, Attachments A-C and all materials submitted with Form #CEFA 2005-7, Rev. 8-2005.

(i) "CEFA Academic Assistance Grant Program" means the program administered by the Authority to make grants pursuant to the Act.

(j) "Comprehensive School" [is a "Comprehensive High School", as defined in California Code of Regulations, Title 2, Section 1859.2] means a high school that serves grades 7 through 12 or 9 through 12 and that offers a variety of curricula, including common courses that emphasize academic achievement and traditional subjects that all students are required to take.

(k) "Eligible Program" or "program" means a program for pupils attending a Qualified School that informs the pupils of the benefits of, and the requirements for, higher education; prepares the pupils for college entrance; advances the academic standing of these pupils; or any combination thereof by providing an Academic Assistance program, an Academic Enrichment program, a Mentoring Assistance program, or any combination thereof.

(l) "Going Concern Qualification" means an assumption by an auditor that the carrying value of an entity's assets will be realized and its liabilities will be liquidated in the ordinary course of continuing business activity.

(m) "Grant" means a grant awarded pursuant to the CEFA Academic Assistance Grant Program.

(n) "Grantee" means an Applicant that has received Grant approval by the Authority.

(o) "Grant Agreement" means a written agreement for a Grant entered into between a Grantee and the Authority.

(p) "Low income area" means an enrollment area for a high school with 30 percent or greater enrollment in the free or reduced fee program, as determined by the State Department of Education.

(q) "Low income student" means a student who is eligible under the reduced fee meal program, as determined by the California State Department of Education.

(r) "Matching Amount" shall not exceed twice the amount that the Applicant has proposed expending on the program.

(s) "Maximum Grant" means \$250,000 per Applicant.

(t) "Mentoring Assistance" may include, but is not limited to, any program that provides guidance and support to students in academics and preparation for the transition from high school to college and college life.

(u) "Most Recent Audited Financial Statement" means a financial statement audited by an independent accounting firm for the most recent fiscal year-end prior to the Application Form submission date.

(v) "Private College" has the same meaning as in subdivision (i) of section 94110 of the Education Code.

(w) "Program Funding Period" means a defined beginning and end date to be approved by the Authority for implementation of the program by which time all program funds must be expended.

(x) "Proposed Allocation" means the proposed amount of funds to be awarded an Applicant in a Funding Round based on score and rank.

(y) "Qualified School" has the same meaning as in Section 94215.9 of the Education Code.

(z) "Total Grant Funds" means \$2 million less Administrative Costs.

(aa) "Very low income area" means an enrollment area for a high school with 70 percent or greater enrollment in the free or reduced fee meal program, as determined by the State Department of Education.

(bb) "Very low income student" means a student who is eligible under the free meal program, as determined by the State Department of Education.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215.3 and 94215.9, Education Code.

HISTORY

1. New chapter 2 (sections 9050–9070) and new section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9051. Eligible Private College.

(a) Any Private College shall be eligible to apply for a Grant if the following conditions are met:

1. The Private College is a non-sectarian college that does not restrict entry on racial or religious grounds. If the Applicant requires its students to take courses in religion or theology, the required courses must meet all of the following criteria: A) the courses must be taught according to the academic requirements of the subject matter, B) the courses must cover a range of human religious experience, C) the courses must not be limited to courses about a particular faith, D) the courses must not be taught in a manner or for the purpose of indoctrinating or proselytizing students of a particular belief.

2. The Private College is accredited by the Western Association of Schools and Colleges ("WASC"), or a similarly recognized organization that provides regional accreditation.

3. The most recent audited financial statements of the Private College do not contain Going Concern Qualification language.

4. The Private College has submitted an Application Form in accordance with Section 9055, along with all of the documentation and information required by Section 9056, and the Application Form proposes an Eligible Program, as defined by Section 9050 (k).

(b) If an Applicant does not meet these conditions, the Applicant shall be deemed ineligible, but may appeal, once all conditions are satisfied.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94110, 94215 and 94215.7, Education Code.

HISTORY

1. New section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9052. Eligible Program.

Grants may only be used for purposes of an Eligible Program, as defined in Section 9050 (k).

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Section 94215.3, Education Code.

HISTORY

1. New section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9053. Maximum Amount.

No grant shall exceed the Maximum Grant or the Matching Amount, whichever is less.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Section 94215.5, Education Code.

HISTORY

1. New section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9054. Application Form.

Blank Application Forms are available from the Authority and may be referred to as the CEFA Academic Assistance Grant Application Form #CEFA 2005–7, Rev. 8–2005, which is hereby incorporated by reference. Each Applicant shall submit a completed Application Form in the manner set forth in Sections 9055 and 9056 of this Chapter. The CEFA Academic Assistance Overview and Instructions for Grant Application, Form #CEFA 2005–7A, Rev. 8–2005 is hereby incorporated by reference.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9055. Application Form Submission.

An Applicant shall submit a completed Application Form by the date specified in the Application Form Overview and Instructions. Applica-

tion Forms submitted after the final filing date will not be accepted for review and evaluation and will be returned. Application Forms must be submitted in duplicate to the Authority. Each eligible Applicant may apply only once.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10–27–2005; operative 10–27–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9056. Content of Application Form.

The items listed below shall accompany the Application Form. If the Applicant consists of more than one Private College, each Private College shall provide these items.

(a) Program Description. The Applicant will fully describe the program, including operations, history, goals and objectives, with supporting material if necessary.

(b) Financial Information. The Applicant shall submit their audited financial statements for each of the last three fiscal years.

(c) Organizational Information. The Applicant shall submit:

1. A copy of the tax-exemption letter from the Internal Revenue Service.

2. A copy of the tax-exemption letter or Letter of Good Standing from the California State Franchise Tax Board.

3. Certificate of Status of Domestic Corporation from the Secretary of State.

4. A copy of the latest accreditation notification.

5. If the Private College requires students to take courses in religion or theology, the Applicant must provide a factual showing that the required courses A) are taught according to the academic requirements of the subject matter, B) cover a range of human religious experiences, C) are not limited to courses about a particular faith, and D) are not taught in a manner for the purpose of indoctrinating or proselytizing students.

6. A certification that the services provided by the program are open to any student, regardless of faith.

(d) Legal Information. Applicant shall complete a legal status questionnaire within the Application Form requiring the Applicant to fully disclose certain legal information.

(e) Agreement and Certification. Within the Application Form and as memorialized in a separate Grant Agreement, the Chief Executive Officer, Chief Financial Officer or other authorized officer of each private college that comprises the Applicant, on behalf of the Applicant, shall agree and certify to the following terms and conditions as a requirement of receiving any Grant:

1. The information contained in the Application Form and attachments is true and correct to the best of his or her knowledge and belief and understands that any misrepresentation may result in the cancellation of a Grant and other actions permitted by law and the Grant Agreement.

The Applicant may be required to return all or a portion of the Grant if the Applicant fails to implement the program as approved or if the approved program is discontinued within one year following expenditure of the grant funds.

Grant Funds will only be used for the purposes described in the Application Form for the Program Funding Period approved by the Authority.

2. The program and the financial records of the Applicant may be subject to an audit or inspection by the Authority and/or the Bureau of State Audits.

3. The Applicant has either disclosed all legal information in the legal status questionnaire or has no legal information to disclose.

4. The Applicant will notify the Authority in writing when funds have been fully expended and certify that the program remained in existence throughout the fiscal year that grant funds were used.

5. The Applicant will provide all documents and information and meet all necessary requirements prior to the release of the Grant.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9057. Application Form Evaluation.

(a) Application Forms shall be reviewed and evaluated by Authority staff according to the selection criteria set forth under Section 9058. An Application Form may receive up to a maximum of 160 points. Applications receiving less than 112 points will not be eligible for grant funding. Application Forms shall be scored and ranked according to points received.

(b) In addition to the other Application Form criteria, a positive response or combination of positive responses to the legal status questionnaire may result in the Applicant becoming ineligible for a Grant.

(c) Authority staff shall consider each type of program to be of equal value.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9058. Evaluation Criteria.

Authority staff will evaluate each Application Form based on the following factors.

(a) Program effectiveness (Maximum eighty (80) points).

Applicants shall be awarded points based on how well the Grant funds would do any or all of the following:

1. Enhance or develop an existing program or develop a proposed program. Applicants are encouraged to establish partnerships with education consortiums, existing academic preparation programs, or businesses to help reach as many low income and very low income students as possible. (5 points).

2. a. Inform pupils attending a Qualified School of the benefits of, and the requirements for, higher education.

b. Prepare these pupils for college entrance, or

c. Advance the academic standing of these pupils.

(Total 15 points).

3. Provide academic assistance services to low income students. Criteria may include the number of hours of service provided per student and the number of students served. (15 points).

4. Provide academic assistance services to very low income students. Criteria may include the number of hours of service provided per student and the number of students served. (15 points).

5. Provide academic assistance services in geographic areas that are not currently being served by similar eligible programs. (15 points).

6. Provide academic assistance services to Qualified Schools, taking into consideration whether schools being served are located in a Low Income Area, or Very Low Income Area, and whether, where applicable, the percentage of pupils who graduate from the school are eligible for admission to the California State University or the University of California is below the statewide average according to the most recent information from the California Postsecondary Education Commission. (15 points)

(b) Commitment of the Applicant to the success of the program (Maximum of twenty (20) points). Points shall be awarded on the basis of how well the Applicant does any or all of the following:

1. Commits its own funds, or funds obtained from other sources, to the program. Criteria will include, but are not limited to, the level and scope of services in relation to the Private College's size. (10 points)

2. Provides need-based financial assistance to students who could not otherwise afford to attend the Applicant's institution. Criteria will include the level and scope of assistance in relation to the Private College's size. (10 points)

3. Clearly states in the application the program's goals and objectives and the method of assessment used to determine the effectiveness of the program (Required, but no points awarded).

(c) Program feasibility (Maximum sixty (60) points). (Points may be awarded under either paragraph (1) or (2)).

1. Applicants shall be awarded points based on how well Applicants demonstrate readiness and feasibility for **new eligible programs** including:

A. A timeline of program development, including the date program services are expected to begin. (Required, but no points awarded).

B. Budget projections for five years and budget assumptions. Feasibility study, if available. (Required, but no points awarded).

C. A demonstration that the Private College can financially support the program for a minimum of five years, commencing with the fiscal year during which the grant is funded. (10 points)

D. A demonstration that the program is ready to be implemented. (10 points)

E. A demonstration that the program is well structured. Criteria may include 1) the adequacy of staffing for the type of program and the projected number of students to be served, 2) the experience and expertise of program staff and management, 3) how well the Private College identifies the needs of the pupils to be served and monitors their progress, 4) and how well the program includes new and innovative ways to promote access and opportunity for all students. (20 points)

F. A demonstration that the Private College has experience in administering a similar program (20 points). Up to 20 points may be awarded if the Applicant can demonstrate they have had success in administering similar programs or have hired personnel that have been involved in successful programs administered at other colleges.

2. Applicants shall be awarded points based on how well Applicants demonstrate ongoing feasibility for **existing programs**, including:

A. The date that program services began. (Required, but no points to be awarded).

B. A demonstration that the program identifies student needs and monitors student progress. (30 points).

C. A demonstration that the program has an demonstrated record of success. Criteria may include, but are not limited to, improvement of student SAT scores, high school graduation rates, or college acceptance rates in the Qualified Schools the Private College serves (30 points).

3. If outside funding sources other than the Grant are required to fund the program, the Applicant shall provide an approval or commitment letter from the other funding sources, confirming that the funding is secured and available in accordance with the program timeline and budget (20 points will be deducted if documentation is not provided).

4. Sources and uses of funds:

The Applicant shall detail all sources of funds needed to operate the proposed program. For existing programs, the Applicant shall detail the Actual Expenditures for Program in the Most Recent Year and the dollar amount budgeted for the next four years. For new programs, the Applicant shall detail the dollar amount budgeted for the next five years. (Required, but no points are awarded for this section).

5. Financial capacity:

Authority staff will review the most recent audited financial statements of the Applicant to ensure the Applicant is financially sound. (No points are awarded for this section). The Applicant may be disqualified based on lack of financial strength or soundness. Criteria may include profitability and strength of balance sheet.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9059. Notification and Proposed Allocation.

Authority staff shall rank each Application Form based on the scores received, with the highest score ranking first. No Proposed Allocation shall be made for applications receiving a score of 111 or less.

Authority staff may recommend that a Proposed Allocation be disbursed in equal increments, in each of a maximum of three fiscal years.

Authority staff shall notify each Applicant in writing of their Application's ranking and the amount of the Proposed Allocation, if any, subject to approval or modification by the Authority in its Allocation.

Upon approval or modification by the Authority, Authority staff shall notify each Applicant in writing, stating the amount of the Applicant's Allocation.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215 and 94215.3, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9060. Appeals.

(a) Availability. An Applicant may file an appeal of the Proposed Allocation. The grounds for any such appeal shall be limited to Applicant eligibility pursuant to Section 9051 and Section 9057 or program eligibility pursuant to Section 9052. No Applicant may appeal the Authority staff evaluation of or Allocation to another Applicant or another Applicant's Application Form.

(b) Timing. The appeal shall be submitted in writing and must be received by the Authority no later than ten (10) calendar days following the transmittal date of the notification of Proposed Allocation of each funding round.

(c) Review. Authority staff shall review the written appeal based upon the existing documentation submitted by the Applicant when the Application Form was filed and any other information Authority staff requests of the Applicant. Authority staff shall make a finding as to the merit of the appeal and shall notify the Applicant as to the decision no later than ten (10) calendar days after the receipt of an appeal. In the event that Authority staff does not approve an appeal, the Applicant may further appeal to the Authority. The Applicant shall notify the Executive Director in writing no later than ten (10) calendar days prior to the next scheduled Authority meeting that the Applicant shall further appeal to the Authority. Any such appeal must be presented by the Applicant, in person, at the same meeting of the Authority where the Proposed Allocations are considered for approval as Grants. Any decision made by the Authority shall be final.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9061. Approval of Grant and Notification of Recipient.

When Proposed Allocations for funding have been determined, Authority staff shall recommend to the Authority at a Board Meeting the Proposed Allocations for consideration and approval as Allocations. Allocations approved by the Authority at the same meeting shall be awarded as Grants to recipients. Recipients shall be notified within five (5) business days of the Board Meeting in writing of the Grants approved.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9062. Any Remaining Funds.

Any Grant funds that have been allocated, but are returned for any reason, will be allocated to the Applicant with the highest scoring evaluation among those Applicants who did not previously receive a grant allocation.

If there are any remaining funds after the Authority's approval of Allocations of all eligible Private Colleges or by June 30, 20xx, whichever is later, the Authority may, in its sole discretion, award grants of those remaining funds to Applicants in a manner that is consistent with the purposes of the Act and this Chapter.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9063. Approval of Grant Use Change.

Notwithstanding Section 9056, the Authority or Authority staff, as appropriate, may, on a case by case basis, consider a change in the use of the Grant if the Applicant demonstrates, to the satisfaction of the Authority or Authority staff, that the change is consistent with the purposes of the Act.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9064. Grant Agreements.

The terms and conditions of a Grant shall be set forth in a Grant Agreement executed by the Grantee and shall include, but are not limited to, all of the following terms and conditions:

- (a) A Grant amount not greater than \$250,000.
- (b) The Authority may issue up to twice the amount proposed by the applicant.
- (c) A Program Funding Period not to exceed thirty-six (36) months from the execution date of the Grant Agreement.
- (d) Disbursement procedures pursuant to Section 9065.
- (e) A provision that any unused Grant funds shall revert to the Authority.
- (f) Agreement to comply with the Authority's program statutes and regulations.
- (g) An agreement that the Grantee will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant, the Program or the Act.

(h) An agreement to comply with laws outlawing discrimination including, but not limited to laws prohibiting discrimination because of sex, race, color ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave. A Qualified School does not comply with these laws may not receive Grant funds.

(i) An agreement that continued compliance with CEFA Academic Assistance Grant Program requirements is the Grantee's responsibility.

(j) An Agreement that the Grant shall only be used for the programs as described in the Grantee's Application.

(k) An Agreement that grant funds may not be used to provide an incentive, award, or reward for the enrollment of an individual in a particular private college.

(l) Any audit provisions.

(m) Any other provisions agreed to by the parties.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9065. Release of Funds.

(a) No Grant shall be released until the following information has been provided to the satisfaction of Authority staff:

1. Verification that all other funds, if needed, are in place to operate the program.
2. An executed Grant Agreement.
3. Documentation that all conditions of funding have been satisfied.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9066. Depletion of Grant Proceeds.

(a) The Grantee shall certify to the Authority when the Grant funds have been expended and provide a statement of sources and uses of funds

for each fiscal year in which Grant funds were used. Grant funds must be expended within the Program Funding Period for which the Allocation was made.

(b) The Grantee shall return any Grant funds to the Authority to the extent that they have not received a Matching Amount as required by Section 9053 for that program in the year they were expended.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9067. Unused Funds.

In the event that any portion of the Grant is forfeited to the Authority, the Authority shall distribute such forfeited funds as described in Section 9062.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9068. Audits.

The Bureau of State Audits or Authority staff may conduct periodic audits and inspections to ensure Grantees are using Grant funds consistently with program requirements and the terms of the Grant Agreement for approved programs. Grantees shall retain all program and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the final report of the status of the program has been submitted.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215, 94215.3 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9069. Recovery of Funds for Non-Performance.

If the Authority determines that Grant funds were not used consistent with CEFA Academic Assistance Grant Program requirements and the terms of the Grant Agreement for an approved program, the Authority may require remedies, including a return of all Grant funds.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215 and 94215.7, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

§ 9070. Reporting.

Applicant shall report to the Authority how funds were expended in each fiscal year that Grant funds were disbursed, including a statement of sources and uses of funds for the program. A final report on the status of the program will be required from the Applicant at the end of the fiscal year following the final year that grant funds were expended. Information to be provided shall include, but not be limited to, the number of students served by the program and the number of students served by the program who attended or will be attending a college or university.

Grantees shall retain all program documentation and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the final report of the status of the program has been submitted.

NOTE: Authority cited: Sections 94140 and 94215.7, Education Code. Reference: Sections 94215.7 and 94216, Education Code.

HISTORY

1. New section filed 10-27-2005; operative 10-27-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 43).

Chapter 3. Qualified Scholarship Funding Corporations

§ 9071. Purpose.

Before applying to the California Debt Limit Allocation Committee for allocation of a portion of the State Ceiling pursuant to Government Code Section 8869.82 and 8869.85, an entity that is seeking to issue Qualified Scholarship Funding Bonds must first obtain CEFA board approval, pursuant to Section 9073(a), unless such entity became a qualified scholarship funding corporation as defined in subsection (d) of Section 150 of Title 26 of the United States Code prior to January 1, 2006. The Authority may in its discretion determine not to grant approval to any entity regardless of whether the entity meets the threshold criteria as an Eligible Candidate as defined in Section 9072(b). The Authority will consult and coordinate with the California Debt Limit Allocation Committee prior to making a final determination.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; and Sections 8869.82 and 8869.85, Government Code.

HISTORY

1. New chapter 3 (sections 9071-9075) and section filed 4-24-2007; operative 5-24-2007 (Register 2007, No. 17).

§ 9072. Definitions.

In addition to the definitions set forth in Section 9001, the following definitions will govern the construction of this chapter:

(a) "Candidate" means a corporation seeking approval from the Authority to apply for an allocation of the State Ceiling for the purpose of issuing Qualified Scholarship Funding Bonds.

(b) "Eligible Candidate" means a Candidate that (A) is incorporated, authorized to operate, and operating as a nonprofit corporation under California law, (B) is exempt from taxation under Section 501(c)(3) of Title 26 of the United States Code and Section 23701d of the Revenue and Taxation Code, (C) has its principal place of business or one of its significant branch offices in California, (D) as required by its articles of incorporation and bylaws, is established and must be operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, as amended and as set forth in Sections 1070 through 1089 of Title 20 of the United States Code, or any successor provisions thereto and must devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States, and (E) has served Proper Notice.

(c) "Proper Notice" means a written notice of intent to seek CEFA board approval under these regulations addressed to the Executive Director of CEFA that is received between July 1 and August 31 of any calendar year, unless no qualified scholarship funding corporation eligible to receive a transfer of the State Ceiling exists, then such written notice of intent may be received on any date.

(d) "Qualified Scholarship Funding Bond" means a bond issued by a corporation in compliance with subsection (d) of Section 150 of Title 26 of the United States Code, including any amendments thereto or any successor provision thereof.

(e) "State Ceiling" means the amount specified by subsection (d) of Section 146 of Title 26 of the United States Code and as determined by the California Debt Limit Allocation Committee for each calendar year.

(f) "Student Loan" means a loan made, insured, or guaranteed under the Higher Education Act of 1965, as amended and as set forth in Sections 1070 through 1089 of Title 20 of the United States Code, or any successor provisions thereto.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; and Sections 8869.82 and 8869.85, Government Code.

HISTORY

1. New section filed 4-24-2007; operative 5-24-2007 (Register 2007, No. 17).

§ 9073. Criteria to Be Considered by the Authority.

(a) When determining whether to grant CEFA board approval to an Eligible Candidate, the Authority will consider all of the Eligible Candidate's attributes and qualifications including but not limited to:

(1) Whether the members of the Eligible Candidate's board of directors have sufficient experience, credentials and qualifications in the student loan industry.

(2) Whether the Eligible Candidate's chief executive officer and chief financial officer have sufficient experience, credentials and qualifications in the student loan industry.

(3) Whether the Eligible Candidate has a business and/or strategic plan.

(4) Whether the Eligible Candidate has a marketing plan.

(5) Whether the Eligible Candidate can demonstrate that it has or will have sufficient staff and a sustainable organizational structure in California to undertake the issuance of bonds and/or acquisition of student loans in California.

(6) Whether the Eligible Candidate has a demonstrated presence in California's student loan industry.

(7) Whether the Eligible Candidate can demonstrate the ability to deliver competitive and comprehensive student loan services to the students in California.

(8) If the Eligible Candidate is seeking bond financing for the purpose of originating student loans, whether the entity or its parent corporation has demonstrated experience in originating student loans.

(9) If the Eligible Candidate is seeking bond financing for the purpose of purchasing student loans in the secondary market, whether the entity or its parent corporation has demonstrated experience in purchasing student loans in the secondary market.

(10) Whether the Eligible Candidate or its parent corporation has experienced an increase in student loan volume and asset base (direct origination or purchased, as applicable) in the previous three years.

(11) Whether the Eligible Candidate or its parent corporation has a demonstrated track record of offering competitive and comprehensive loan products.

(12) Whether the Eligible Candidate or any of its officers, employees or affiliates has been the subject of any administrative, civil or criminal enforcement action brought by a federal, state, or local governmental agency.

(13) If the Eligible Candidate is owned or controlled by, or operated under common control with, a for-profit entity, whether the Eligible Candidate will provide a public benefit that is not already being met by a Qualified Scholarship Funding Corporation, such as a grant program for financially needy students or an outreach program encouraging high school students to attend college and obtain an undergraduate degree.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; and Sections 8869.82 and 8869.85, Government Code.

HISTORY

1. New section filed 4-24-2007; operative 5-24-2007 (Register 2007, No. 17).

§ 9074. Information to Be Submitted by the Candidate to the Authority.

A Candidate seeking approval under this chapter must submit sufficient information to the Authority in order for the Authority to determine that the Candidate meets the threshold criteria of Section 9072(b) to be considered an Eligible Candidate, and must also submit the following information to the Authority to assist the Authority in making that determination:

(a) Organizational Information.

(1) An overview of the Candidate, including ownership structure and all related entities.

(2) A description of the present student loan activity and past student loan experiences of the Candidate and, if applicable, its parent corporation.

(3) The Candidate's articles of incorporation and bylaws.

(4) Audited financial statements for each of the last three fiscal years.

(5) A resume for each board member and all key personnel, including but not limited to the chief executive officer and the chief financial officer, which must include relevant work experience, academic qualifications, and proposed responsibilities.

(6) A description of partnerships with public or private organizations that would assist the entity in promoting access to post-secondary education for California residents.

(7) A copy of the tax-exemption letter from the Internal Revenue Service and a copy of the tax-exemption letter or Letter of Good Standing from the California State Franchise Tax Board.

(8) Certificate of Status of Domestic Corporation from the Secretary of State.

(b) Presence in California.

(1) A description of the Candidate's current business activities or operations being conducted in California.

(2) A description of the Candidate's business plan.

(3) The volume of student loans the Candidate reasonably anticipates making or purchasing as a result of receiving tax-exempt bond financing.

(4) The criteria, standards, terms and conditions anticipated for the programs and services to be provided by the Candidate.

(5) A description of where and how the Candidate would originate, service and/or purchase student loans.

(c) Legal Status.

(1) Disclosure of (A) criminal matters involving the Candidate, (B) civil matters involving the Candidate that may have an impact on the Candidate's legal or financial status, and (C) proceedings, investigations, or other matters involving federal, state or local regulatory agencies that may impact the Candidate's legal or financial status.

(2) Documents explaining or supporting items listed in subsection (1).

(d) If the Eligible Candidate is owned or controlled by, operated under common control with, a for-profit entity, documents demonstrating to the Authority in its discretion, that the Eligible Candidate will provide a public benefit that is not already being met by a Qualified Scholarship Funding Corporation, such as a grant program for financially needy students or an outreach program encouraging high school students to attend college and obtain an undergraduate degree.

(e) Any additional information requested by Authority staff that is related to the criteria listed in Section 9073.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; and Sections 8869.82 and 8869.85, Government Code.

HISTORY

1. New section filed 4-24-2007; operative 5-24-2007 (Register 2007, No. 17).

§ 9075. Public Notice.

Prior to September 30 of each calendar year, the Authority will compile a list of all Candidates that have served Proper Notice during the calendar year pursuant to this chapter. Such list will be available to the public upon request.

NOTE: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; and Sections 8869.82 and 8869.85, Government Code.

HISTORY

1. New section filed 4-24-2007; operative 5-24-2007 (Register 2007, No. 17).

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Title 4. Business Regulations

Division 13. California Alternative Energy Source Financing Authority

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Division 13. California Alternative Energy Source Financing Authority

Article 1. Procedures Relating to the Authority of Officers and Members

§ 10010. Meetings.

Meetings will be held as follows:

(a) Regular meetings of the Authority will be held on the fourth Tuesday of each month at Sacramento, California unless otherwise ordered by the Authority.

(b) Special meetings of the Authority may be called by the Chairperson upon giving notice to each member, and appropriate notice to the public.

(c) Meetings of the Authority shall be held at the time and place designated by the Chairperson in the notice calling such meeting unless otherwise ordered or agreed to by the Authority.

(d) The Chairperson or Chairperson's designee shall preside at all meetings of the Authority.

(e) Except as otherwise provided by this article and except when all members present indicate otherwise, meetings of the Authority shall be conducted pursuant to the latest edition of Robert's Rules of Order.

(f) The agenda shall be prepared by the Executive Secretary, including any item submitted by any member of the Authority, and shall be transmitted to each member of the Authority with the notice of the meeting.

(g) Notice of all meetings will be given in accordance with the state agency meeting statutes (Section 11125 of the Government Code).

NOTE: Authority cited: Section 26009, Public Resources Code. Reference: Sections 26004 and 26006, Public Resources Code.

HISTORY

1. New Article 1 (Section 10010) filed 11-13-81 as procedural and organizational; effective thirtieth day thereafter (Register 81, No. 46).

§ 10020. Fees.

(a) The Authority shall charge fees for its reasonable and necessary ad-

ministrative and program expenses, as a self sustaining agency.

(b) The following fees shall be applicable:

Application Fee. The Authority requires a non-refundable application fee of .0005 (one twentieth of one percent) of the principal amount of financing (but not less than \$250.00 or more than \$5,000.00) for each project to be considered for financing. This shall be paid at the time the formal application is submitted.

Administrative Fee. The Authority charges a one-time administrative fee due at the closing of the financing. The original application fee is credited against the administrative fee at that time.

(1) **Small Business Issues.** If the applicant meets the Authority's requirements for consideration as a small business, the following apply:

(A) If the financing requested is no greater than \$2,499,999: .004 (four tenths of 1 percent).

(B) If the financing requested is at least \$2,500,000 but no greater than \$4,999,999: .005 (five tenths of 1 percent).

The criteria for determining if an applicant is considered a small business will be the same as that used by the U.S. Small Business Administration for their loan guarantee programs as of October 9, 1979. The maximum size is based upon net worth, income and number of employees. The SBA criteria is found in 13 CFR Sections 121.3-10 and 121.3-11, SBA Rules and Regulations.

(2) **All Other Issues.** If the applicant does not meet the criteria for small business consideration by the Authority, or if the financing is \$5,000,000 or greater, the fees would be .006 (six tenths of 1 percent) of the amount of the financing obtained. The applicant shall also reimburse the Authority for all reasonable and necessary out of pocket expenses the Authority may incur at the applicant's request, and all other direct or indirect expenses properly allocable to the proposed financing unless paid out of the proceeds of the bond issue. All fees for a particular proposed financing shall be paid by the applicant and deposited in the Authority fund.

NOTE: Authority cited: Section 26009, Public Resources Code. Reference: Sections 26011(e), 26012 and 26027, Public Resources Code.

HISTORY

1. New section filed 3-24-82 as procedural and organizational; effective upon filing (Register 82, No. 13).

2. Amendment filed 6-8-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

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Division 14. California Student Loan Authority

§ 10101. Fees.

The Authority shall charge fees for its reasonable and necessary administrative program expenses.

The following fees shall be applicable:

(a) Commitment Fee. The Authority shall require a non-refundable commitment fee of .0005 (one-twentieth of one percent) of the principal amount of financing requested (but not less than \$250.00 or more than \$5,000.00). This commitment fee shall be paid at the time the formal request is submitted.

(b) General Fees. The Authority shall charge an administrative fee equal to one-half of one percent (1/2 of 1%) of the amount of financing authorized. Such administrative fee shall be payable at the closing of the financing. The commitment fee shall be credited against the administrative fee. In addition, the Authority shall charge any reasonable and necessary out-of-pocket expenses which the Authority may incur and all other direct or indirect expenses of the Authority properly allocable to the proposed financing. All such fees shall be paid by the applicant unless paid out of the proceeds of the bond issue. Such fees shall be deposited in the Authority Fund.

NOTE: Authority cited: Section 69920, Education Code. Reference: Section 69920, Education Code.

HISTORY

1. New Chapter 14 (Section 10101) filed 5-20-82 as procedural and organizational; effective thirtieth day thereafter (Register 82, No. 21).

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Title 4. Business Regulations

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Division 15. California School Finance Authority

Article 1. Charter School Facilities Program

§ 10151.

This Article implements that portion of the Charter School Facilities Program established pursuant to Article 12 of Chapter 12.5 of Part 10 of the Education Code and which is the responsibility of the California School Finance Authority.

HISTORY

1. New division 15 (article 1), article 1 (sections 10151–10162 and Appendix) and section filed 2–13–2003 as an emergency; operative 2–13–2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–13–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–13–2003 order transmitted to OAL 6–12–2003 and filed 7–14–2003 (Register 2003, No. 29).

§ 10152. Definitions.

(a) “Account” shall have the meaning set forth in Education Code section 17078.52(d)(2).

(b) “Applicant” shall mean the charter school or school district that has applied for financing pursuant to and meets the criteria set forth in Education Code section 17078.53(c).

(c) “Application” shall mean a completed Form SAB 50–09, as defined and developed by the board, and Form CSFA 03–01, revised 3/04, as developed by the authority and available on its Web site (www.treasurer.ca.gov/csfa/charter/application.pdf), and all other documents required to be submitted to the board and authority. Form CSFA 03–01, revised 3/04, is incorporated by reference for purposes of this Article.

(d) “Authority” shall have the meaning set forth in Education Code section 17078.52(d)(1).

(e) “Board” shall mean the State Allocation Board.

(f) “Charter school” shall mean a school as established in California pursuant to Education Code Section 47600, et seq.

(g) “Chartering authority” shall mean the school district, county office of education or the State Board of Education that granted a school’s petition to become a charter school pursuant to Education Code section 47605.

(h) “Financial hardship” for purposes of this Article shall mean the demonstrated inability, to the authority’s satisfaction, to make lease payments as required in an applicant’s lease agreement. The revocation of a school’s charter shall not qualify as financial hardship.

(i) “Financially sound” shall have the meaning set forth in Education Code section 17078.52(d)(4).

(j) “Material contract” shall mean a contract between a charter school and any vendor that is in excess of 5 percent of charter school gross revenues.

(k) “Preliminary apportionment” shall have the meaning set forth in Education Code section 17078.52(d)(3).

(l) “Program” shall mean the Charter School Facilities Program as established pursuant to Article 12 of Chapter 12.5 of Part 10 of the Education Code.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52, 17078.53, and 17078.57, Education Code; and Title 2, Division 4, Part 26.8 (commencing with section 47600), Education Code.

HISTORY

1. New section filed 2–13–2003 as an emergency; operative 2–13–2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–13–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–13–2003 order transmitted to OAL 6–12–2003 and filed 7–14–2003 (Register 2003, No. 29).
3. Amendment of section and NOTE filed 3–29–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3–29–2004 (Register 2004, No.

14). A Certificate of Compliance must be transmitted to OAL by 7–27–2004 or emergency language will be repealed by operation of law on the following day.

4. Amendment of section and NOTE refiled 7–19–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7–27–2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–24–2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7–19–2004 order transmitted to OAL 11–8–2004 filed 12–23–2004 (Register 2004, No. 52).

6. Amendment of subsections (c), (g) and (h), new subsections (j)–(k), (m) and (p) and subsection relettering filed 11–3–2006 as an emergency; operative 11–3–2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–5–2007 or emergency language will be repealed by operation of law on the following day.

7. Reinstatement of section as it existed prior to 11–3–2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10153. Application.

When an applicant voluntarily applies to the board for a preliminary apportionment, as a condition of receiving a preliminary apportionment from the board, the applicant will provide concurrently all information required by the authority as described in section 10155, by submitting a completed Form CSFA 03–01 to the authority. If the information provided in Form CSFA 03–01 is insufficient to allow the authority to determine whether a charter school is financially sound, the authority shall notify the applicant and board, and reserves the right to request such additional information as will be necessary to make the determination.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52, 17078.53 and 17078.57, Education Code.

HISTORY

1. New section filed 2–13–2003 as an emergency; operative 2–13–2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–13–2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 2–13–2003 order transmitted to OAL 6–12–2003 and filed 7–14–2003 (Register 2003, No. 29).

3. Amendment of section filed 3–29–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3–29–2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–27–2004 or emergency language will be repealed by operation of law on the following day.

4. Amendment of section refiled 7–19–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7–27–2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–24–2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7–19–2004 order transmitted to OAL 11–8–2004 filed 12–23–2004 (Register 2004, No. 52).

6. Amendment filed 11–3–2006 as an emergency; operative 11–3–2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3–5–2007 or emergency language will be repealed by operation of law on the following day.

7. Reinstatement of section as it existed prior to 11–3–2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10154. Financially Sound Determination.

(a) A financially sound charter school shall have been a financially capable concern for at least 24 months prior to submission of the application. In addition, a financially sound charter school shall have at least two academic years of instructional operations of a charter school prior to submission of the application.

(b) Where the application is for construction of a new school, the organization that is applying on behalf of the new school shall demonstrate it has an approved charter or charter amendment for the new school at the time of submission and that it has operated or managed another charter school or charter schools for at least two academic years of instructional operations of a charter school prior to submission of the application. In addition, if the application is for a new school, and the organization applying on behalf of the charter school does not have experience operating other charter schools in California for at least two academic years, the applicant may satisfy the requirements of this section by providing evidence of its educational plan, financial resources, facilities expertise, and management expertise. Management expertise must be established by demonstrating, to the authority’s satisfaction, that key personnel (e.g., Chief Executive Officer, President, Operations Manager, Chief Finan-

cial Officer, Principal, etc.) involved in operating the applicant charter school have at least two academic years of experience in management positions at other charter schools in California. To establish the required level of management experience, the applicant must provide:

(1) Name(s) and address(es) of the charter schools in California where experience was earned;

(2) Titles, responsibilities and duties of the key personnel at the charter school(s);

(3) Length of tenure of the key personnel at the charter school(s);

(4) Name(s), address(es), phone number(s) and other contact information of the key personnel's immediate supervisor(s) and the President(s) of the charter school(s)' governing board;

(5) Student performance data for the charter school(s) covering the period of service; and

(6) Available information regarding performance of the key personnel at the charter school(s) where the experience was earned.

(c) Where the application is submitted by a school district or county office of education and the charter school has not operated for at least two academic years as a charter school, the school district or county office of education's experience operating public schools may be used to satisfy the requirements of this section.

(d) In making its determination regarding whether a charter school is financially sound, the authority shall consider certain factors, including but not limited to:

(1) Whether the charter school has complied with the terms of its charter agreement;

(2) Whether the charter school is in good standing with its chartering authority;

(3) Whether the charter school's audited financial statements are free of material exceptions and "going concern" issues;

(4) Whether financial results and projections demonstrate the charter school's ability to operate at least on a break-even basis, historically, as well as in the future taking into consideration the increased obligations resulting from the applicant's participation in the program;

(5) Whether the charter school has the ability to make the lump sum payment proposed by the applicant and/or estimated lease payments determined by the authority;

(6) In circumstances where a charter school has a guarantor, whether the guarantor has the financial stability, resources, and authority to secure the charter school's commitment to make required lease payments; and

(7) Whether the charter school has qualified management and staff.

(e) The authority will perform a site visit of the charter school facility currently used by any applicant that is located outside of the school district that chartered it. Such visit shall be during hours when pupils are present and instruction is being provided. The authority reserves the right to perform such a visit of any other applicant.

(f) The authority also may consider any information voluntarily submitted by the granting agency, the school district in which the charter school will be located, the county office of education for the county in which the charter facility will be located, and any school district or county office of education whose students currently or are projected to attend the charter school.

(g) The authority will provide the board with an initial determination of whether a charter school is financially sound for the purposes of the board establishing the preliminary apportionment.

(h) Prior to the board's final apportionment, the authority will provide the board with a final determination of whether the charter school is financially sound. The authority reserves the right to withdraw its initial determination that a charter school is financially sound prior to the final apportionment by the board if any material change to the charter school occurs between the preliminary and final apportionment which, in the opinion of the authority, makes the charter school no longer financially sound.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52, 17078.53, 17078.56 and 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).

3. Amendment of section and NOTE filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.

4. Amendment of section and NOTE refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).

6. Amendment of subsections (d)(5)-(6) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.

7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10155. Preliminary Application Information.

In determining whether a charter school is financially sound for the purposes of the board's preliminary apportionment, the authority shall require the following information be provided by the applicant with its application (Form CSFA 03-01, revised 3/04) for preliminary apportionment:

(a) Organizational information.

(1) History of charter school and founding group

(A) Date charter school commenced instructional operations;

(B) Description of charter school curriculum, including specific focus or theme;

(C) Analysis of competition and charter school's competitive advantage(s), including method of student recruitment and marketing;

(D) Description of relationships with the chartering authority and all major funding sources, both public and private;

(E) Copy of Articles of Incorporation and Corporate Bylaws (or documentation of charter school's current legal status in the event the charter school is not incorporated); and

(F) Copy of charter agreement/approved charter amendment/contract.

(2) Copies of reports to and from the chartering authority, including annual report and evidence that the chartering authority is engaged in due diligence in its monitoring of the charter school's student and organizational performance data and evidence of the chartering authority's oversight and approval of the charter school's instruction and curriculum. In addition, if the applicant's charter is due to expire within 12 months of application submission, include written documentation describing the applicant's plan for charter renewal along with any available information regarding the chartering authority's support for the renewal. For any applicant, regardless of the timing of charter renewal, the authority reserves the right to request additional and specific information regarding the applicant's charter renewal status, including information directly from the chartering authority.

(3) The charter school's most recent business plan and/or strategic plan. If possible, such plans should encompass the next three academic years. For expansions, staffing plans also must be submitted;

(4) The operational agreement or memorandum of understanding between the charter school and the chartering authority;

(5) Historical, current, and projected enrollment for the next three years, and the charter school's waiting list, if available;

(6) Targeted student population and student retention percentage for all years of operation of the charter school;

(7) Student performance data for the past three academic years;

(8) List of the charter school's Board of Directors including their occupations, cities of residence, and terms of office; and

(9) Resumes of key staff members (e.g., Chief Executive Officer, President, Operations Manager, Chief Financial Officer, Principal, etc.) of the charter school.

(b) Financial information.

(1) The charter school's organizational budgets for the current and next fiscal years;

(2) The charter school's projected income statements, balance sheets and cash flows for at least the next three years, or through the first full academic year of operation of the applicant school, whichever is longer. Include written assumptions;

(3) The charter school's audited financial statements, including notes, for the last three fiscal years. If the charter school is in its third year of operation, only two fiscal years of audited financial statements are necessary;

(4) The charter school's anticipated financial contribution to the project, including any lump sum payment to be made to meet its local match requirements by or on behalf of the charter school, and the source of the anticipated financial contribution;

(5) The charter school's most current available monthly financial statement (unaudited), including a year-to-date financial statement, with a comparison to budgeted year-to-date, current total annual budget, and prior year actual-to-date; and

(6) Where a charter school has a guarantor, financial information, as described in Section 10159, related to the guarantor.

(c) All Material Contracts.

(1) List and copy of all material contracts, including, but not limited to, management, support services, transportation contracts, and any such anticipated contracts involving use of space or equipment to be financed with Program funds;

(2) A description of services provided by the vendor to the charter school; and

(3) For those charter schools contracting with educational management organizations, the following information also must be provided:

(A) Brief history of the organization, including most recent annual report;

(B) Description of who is served by the organization, including mission and targeted geographic area;

(C) Budget of the organization for the current and next three fiscal years;

(D) Financial audits of the organization for the last three fiscal years;

(E) Resumes for key staff of the organization;

(F) List of Board of Directors of the organization, including their occupations and cities of residence;

(G) Contact information for the organization; and

(H) A narrative describing the organization's scope and strategic plan for the next three years.

(d) Legal Status Questionnaire.

A completed Legal Status Questionnaire submitted in the form set forth by the authority as part of Form CSFA 03-01, revised 3/04, and which can be found at www.treasurer.ca.gov/csfa/charter/application.pdf.

(e) For a charter school which is governed by a school district, county office of education, or the State Board of Education, if any of the specific documentation requested in this section is not available, the applicant must provide a justification for not providing the specific documentation requested and provide alternative documentation that addresses the requested information.

(f) For organizations which operate multiple schools or which are applying on behalf of multiple schools, the information requested in this section must be submitted specifically with respect to each school for which an application is submitted, along with such information for the organization as a whole.

(g) Failure to provide sufficient required information as described in this section, in a timely manner, may result in the authority's inability to determine the financial soundness of an applicant and the applicant's disqualification from the program.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52, 17078.53 and 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).

3. Amendment of section and NOTE filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.

4. Amendment of section and NOTE refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-19-2004 order, including further amendment of subsection (a)(2), transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).

6. Amendment of first paragraph and subsections (a)(4), (b)(5) and (d) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.

7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10156. Method of Determining Whether a Charter School Is Financially Sound.

Form CSFA 03-01, revised 3/04, and any other information that is requested or otherwise received by the authority, will be reviewed and evaluated by the authority for purposes of determining whether a charter school is financially sound. In making this determination, the authority will utilize the apportionment eligibility amounts provided by the board and will rely on such amount being sufficient to complete the project, without evaluation or verification by the authority. The authority will evaluate all information to assess:

(a) the charter school's expected ability to maintain stable financial operations and make estimated lease payments, if applicable;

(b) any material risks that would threaten the financial or operational viability of the applicant or the charter school;

(c) current and historical performance, including cash flow, major revenues, degree of reliance on grants and fundraising, enrollment trends, projected average daily attendance, expenses, and debt service coverage, if applicable;

(d) reasonableness of projected financial performance based on current and historical performance and the charter school's business and/or strategic plans;

(e) whether the applicant's financial condition is consistent with its planned contributions to the project;

(f) adequacy of the qualifications and performance of management and personnel to perform necessary administrative, curricular, financial and human resource functions;

(g) evidence that the applicant is meeting the terms of its charter and is not in imminent danger of having its charter revoked by the chartering authority;

(h) evidence that the chartering authority performs its required oversight responsibilities, including review of student and school performance data;

(i) adequacy of material contracts and ability of the charter school to manage such contracts and meet its obligations under such contracts. Where the charter school has contracted with an education management organization, the authority will perform an analysis of the current and historical financial and operational condition of the organization, in addition to the above;

(j) results of a site visit, if made pursuant to section 10154(e);

(k) the impact of any lump sum payment the charter school has indicated it intends to make; and

(l) where a charter school is using a guarantor, the financial resources, stability, and authority of the guarantor, and the extent to which the applicant is reliant on the guarantor to meet minimal coverage ratios.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52 and 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Amendment of section filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Amendment of section refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment of first paragraph and subsection (a) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10157. Ongoing Monitoring of Applicant's Financial Soundness.

(a) As a condition of the authority's determination that a charter school is financially sound prior to the preliminary apportionment, the authority may require that all applicants determined to be financially sound and receiving a preliminary apportionment provide regular updates, upon request, to the authority on key aspects of their financial condition and operating results. Such updates, may include, but not be limited to the following:

- (1) semi-annual unaudited financial statements;
- (2) audited financial statements as they are completed and filed with the California Department of Education and the chartering entity;
- (3) adopted budgets and interim budget reports filed with the charter school's chartering entity; and
- (4) notice of any material change to the enrollment, student performance, charter status, or financial condition within 45 days of such material change.

(b) Where a charter school has a guarantor, similar information to that described in subsection (a) also may be required to ensure the continuing financial stability of the guarantor.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52, 17078.53 and 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Renumbering of former section 10157 to section 10158 and new section 10157 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Renumbering of former section 10157 to section 10158 and new section 10157 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).

§ 10158. Final Application Information.

(a) In determining whether a charter school is financially sound prior to the final apportionment, the authority will require the applicant to update information submitted in the original application for preliminary apportionment, including, but not limited to:

(1) Any material changes to information provided pursuant to section 10155(a), (b), (c) and (d), and updates, including, but not limited to:

(A) If applicable, renewals and amendments to the charter agreement/contract and any operational agreement or memorandum of understanding between the charter school and the chartering authority;

(B) Copies of all written reports to and from the chartering authority, including the annual report and evidence that the chartering authority continues to engage in due diligence in its monitoring of the charter school's student and organizational performance data, and evidence of the chartering authority's oversight and approval of the charter school's instruction and curriculum, since the preliminary application was submitted;

(C) Updated business and strategic plans encompassing the next three academic years must be provided;

(D) Current enrollment, targeted student population, and student retention rates for all years after the date of the preliminary apportionment but prior to the final apportionment;

(E) Projected enrollment for the next three years, and current waiting list, if available;

(F) Student performance data for all years after the date of the preliminary apportionment but prior to final apportionment;

(G) Current list of the Board of Directors, including their occupations, cities of residence, and terms of office;

(H) Resumes of new key staff, along with notice of any resignations or terminations of key staff originally identified in the application;

(I) Audited financial statements for all years ending not less than 180 days after the preliminary apportionment and prior to the final apportionment;

(J) Most current monthly unaudited financial statement, including year-to-date financial statement, with comparison to budgeted year-to-date, current total annual budget, and prior year actual-to-date;

(K) Updated financial information regarding the guarantor, if applicable;

(L) Any material changes in material contracts existing as of the date of the preliminary apportionment and additional material contracts entered into since the preliminary apportionment, including any changes to educational management organization contracts, if applicable; and

(M) A completed Legal Status Questionnaire submitted in the form set forth by the authority, as part of Form CSFA 03-01, revised 3/04, and found at www.treasurer.ca.gov/csfa/charter/application.pdf, reflecting any changes since the application.

(b) In the event that the charter school's charter is not renewed or is revoked at any time before a final apportionment, the authority will notify the board that the charter school is no longer financially sound.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.52 and 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Renumbering of former section 10158 to section 10160 and renumbering and amendment of former section 10157 to section 10158 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Renumbering of former section 10158 to section 10160 and renumbering and amendment of former section 10157 to section 10158 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment of subsections (a)(1)(A) and (a)(1)(M) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10159. Use of a Guarantor.

If an applicant is opting to make its local share match via a lease, the applicant may support its application with a guarantor that is willing to provide a commitment to guarantee the lease. The guarantor may be an individual, government entity, or a for-profit or non-profit organization. Where an applicant intends to use a guarantor, the guarantor must demonstrate its commitment to the guaranty and its financial capability and legal authority to make such a guaranty by taking the following steps:

(a) Submit a letter, drafted in conjunction with authority staff, describing the terms of the guarantor's commitment with the charter school's application for preliminary apportionment.

(b) Submit the following information with the charter school's application for preliminary apportionment:

(1) A Legal Status Questionnaire completed by the guarantor and submitted in the form set forth by the authority, as part of Form CSFA 03-01, revised 3/04, and found at www.treasurer.ca.gov/csfa/charter/application.pdf;

(2) If the guarantor is a corporation, a copy of the by-laws and Articles of Incorporation. If the guarantor is not a corporation, other documents which describe the legal structure of the guarantor;

(3) Where applicable, a list of the guarantor's Board of Directors, including their occupations, cities of residence, and terms of office;

(4) Where applicable, a copy of the guarantor's authorization or approval by its governing board to undertake the guaranty;

(5) A minimum of three letters of reference from financial institutions with which the guarantor does business;

(6) Financial statements, audited if applicable, for the three years prior to the date of application. Financial statements shall include budgets, cash flow statements, and balance sheets, and any written assumptions; and

(7) Financial projections which include, but are not limited to, liquidity, balance of funds, and net assets for at least the next three years, or through the first full academic year of operation of the applicant school, whichever is longer.

(c) Submit a fully executed guaranty agreement, drafted in conjunction with authority staff, at the time of release of funds, whether for an advance apportionment or for the final apportionment.

(d) The information required in section 10159(b) also must be updated upon the charter school's application for advance apportionment and final apportionment. The authority also reserves the right to request periodic updates of information provided by the guarantor between the preliminary apportionment and final apportionment.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Section 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Renumbering of former section 10159 to section 10161 and new section 10159 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Renumbering of former section 10159 to section 10161 and new section 10159 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment of first paragraph and subsection (b)(1) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10160. Payment of Local Matching Share.

(a) Facilities funded pursuant to the program shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments which may be reduced in the case of a lump sum payment.

(b) If the applicant elects to make lease payments in lieu of a lump sum local matching payment, the authority will determine the lease payment schedule by amortizing one-half of the total approved project costs, minus any lump sum payments, over the term of the lease payment period for each applicant prior to the final apportionment and notify the board and the applicant.

(c) If the applicant is receiving a significant contribution from a third party, the applicant shall provide information describing whether the contribution will be used to cover costs which are in excess of the eligible costs as determined by the board or to be used to meet the applicant's local matching share or both.

(d) To be eligible for matching share financing, the charter school must demonstrate, to the authority's satisfaction, all of the following:

(1) it is financially sound;

(2) it can pay the matching share through lease payments at the rate paid on moneys in the Pooled Money Investment Account as of the date of fund disbursement that results in an amortization schedule of no more than 30 years; and

(3) it has a minimum debt service coverage ratio determined by the authority to be sufficient, but in no event to be less than 1.0x.

(e) Upon advance or final apportionment, the authority will prepare a lease agreement on behalf of the board for the applicant that contains security, reporting, and default provisions as described in sections 10159 and 10160.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.54, 17078.57 and 17078.58, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Renumbering of former section 10160 to section 10162 and renumbering and amendment of former section 10158 to section 10160 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Renumbering of former section 10160 to section 10162 and renumbering and amendment of former section 10158 to section 10160 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-19-2004 order, including further amendment of subsections (d)(3)-(e), transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10161. Security Provisions.

(a) Title to project facilities shall be held by the school district in whose boundaries the facility is to be physically located, in trust, for the benefit of the state public school system.

(b) Any person or entity providing a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of. If the contribution was made for the explicit purpose of purchasing any asset with a normal life expectancy of less than twenty years, the security interest will be adjusted to reflect the depreciation of the asset(s).

(c) Any person or entity that provides a contribution to the applicant which is used solely to assist the applicant in meeting its local matching share shall not be entitled to a security interest as provided in subsection (b). Where the contribution results in total project funding beyond the state share and local matching share, the contributor's security interest shall be limited to the amount in excess of the state share and local matching share.

(d) If a default occurs and all lease payments have not been made, the security interest of any person or entity providing a substantial contribution to the costs of the project shall be satisfied only after the account is reimbursed for any remaining unpaid local matching share.

(e) Specific terms of security provisions for persons or entities providing a substantial contribution shall be determined on a case-by-case basis.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Section 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Renumbering of former section 10161 to section 10163 and renumbering and amendment of former section 10159 to section 10161 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Renumbering of former section 10161 to section 10163 and renumbering and amendment of former section 10159 to section 10161 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment of subsection (d) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10162. Reporting and Default Provisions.

(a) Reporting provisions within the lease agreement will include, but not be limited to, the requirements that all recipients of program funding shall

(1) provide to the authority semi-annual unaudited financial statements;

(2) report to the authority any material adverse change in its financial condition that could adversely affect its ability to make its lease payments under the program;

(3) report to the authority if the charter school's charter has been revoked or has not been renewed within 30 days of notification of such action, including providing the authority with a copy of the document provided by the chartering authority notifying the charter school of such action;

(4) provide to the authority audited financial statements within 120 days of the end of each fiscal year; and

(5) obtain from the board prior written consent before incurring any additional indebtedness, which consent may only be given if the authority has determined that the charter school will remain financially sound with the additional indebtedness.

(b) Default provisions will include monetary penalties for late payments. Upon request of the board, the authority may amend the terms of the lease agreement, including the amortization schedule, where the applicant has established financial hardship to the satisfaction of the authority and the board, and the authority has determined that the charter school will be financially sound under the terms of the revised lease agreement. However, no such amendment may extend the amortization schedule beyond 30 years from the date of disbursement of funds. In the event the chartering authority has revoked or declined to renew the charter, the lease will be considered to be in default and the provisions of Education Code section 17078.62 shall be invoked. In instances where the lease is in default due to the revocation of the charter or failure to renew the charter, monetary penalties will not be incurred so long as the school district complies with Education Code section 17078.62.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Section 17078.57, Education Code.

HISTORY

1. New section filed 2-13-2003 as an emergency; operative 2-13-2003 (Register 2003, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-13-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-13-2003 order transmitted to OAL 6-12-2003 and filed 7-14-2003 (Register 2003, No. 29).
3. Repealer of former section 10162, repealer of Appendix A and renumbering and amendment of former section 10160 to section 10162 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer of former section 10162, repealer of Appendix A and renumbering and amendment of former section 10160 to section 10162 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).
6. Amendment of subsections (a), (a)(2) and (b) filed 11-3-2006 as an emergency; operative 11-3-2006 (Register 2006, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2007 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 11-3-2006 emergency amendments pursuant to Government Code section 11346.1(f) (Register 2007, No. 39).

§ 10163. Integrating Funding.

The authority shall consider any requests made by the board or an applicant to utilize the funding mechanisms provided for in Education Code section 17180(i) to enhance financing provided pursuant to this Program.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Section 17078.57, Education Code.

HISTORY

1. Renumbering of former section 10161 to section 10163 filed 3-29-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3-29-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-27-2004 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 10161 to section 10163 refiled 7-19-2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7-27-2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-24-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7-19-2004 order transmitted to OAL 11-8-2004 filed 12-23-2004 (Register 2004, No. 52).

§ 10164. Advance Apportionment.

(a) For purposes of this article, "advance apportionment" is defined as an advance release of funds for design or site acquisition prior to the approval of the project by the Department of General Services.

(b) Where a charter school has applied to the Board for an advance apportionment, the authority will conduct a review of the charter school's financial status at the time of the application for advance apportionment to determine whether the charter school has maintained a financially sound status. The authority may, in connection with this review, request updates of any information that was provided in the charter school's preliminary application, as described in Section 10155. Furthermore, where

the charter school has a guarantor, the review may include a request of updates of any information that was provided by the guarantor in connection with the charter school's preliminary application, as described in Section 10159.

NOTE: Authority cited: Section 17078.57, Education Code. Reference: Sections 17078.53 and 17078.57, Education Code.

HISTORY

1. New section filed 3–29–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 3–29–2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–27–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–19–2004 as an emergency pursuant to Education Code section 17078.57(b); operative 7–27–2004 (Register 2004, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–24–2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–19–2004 order transmitted to OAL 11–8–2004 filed 12–23–2004 (Register 2004, No. 52).

Article 2. Charter School Facilities Program — Implementation of State Charter School Facilities Incentive Grant

§ 10175. Purpose.

This Article implements the California School Finance Authority's administration of the grant received under the U. S. Department of Education, State Charter School Facilities Incentive Grants Program, for the purpose of enhancing the Charter School Facilities Program, Education Code section 17078.52 et seq., which provides financing for school facilities for California charter school pupils.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New article 2 (sections 10175–10191) and section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 10175–10191) and section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

§ 10176. Definitions.

For the purposes of this article, the words and phrases defined in section 17078.52 of the Education Code shall have the same meaning as described therein. In addition, the following words and phrases shall have the meaning as described below:

(a) "Applicant" shall mean the charter school or educational management organization applying on behalf of a charter school for a grant under this article.

(b) "Application" shall mean a completed application (Form CSFA 05–01, rev. 03/07), incorporated herein by reference, as defined and developed by the Authority and available on its Web site, and all other documents required to be submitted to the Authority.

(c) "CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) to the California Department of Education.

(d) "Charter School" shall mean a school meeting the definition of a charter school in Education Code section 47600, et seq. and also meeting the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.

(e) "Chartering Authority" shall mean the school district, county office of education or the State Board of Education that granted a school's petition to become a charter school pursuant to Education Code section 47605.

(f) "Classroom–Based Instruction" shall have the meaning set forth in Education Code section 47612.5(e)(1).

(g) "Free and Reduced Lunch" means the Free/Reduced Percentage as collected by the California Department of Education (CDE), and posted on the CDE website.

(h) "Grantee" means the California School Finance Authority, which will serve as the administrator of the grant and will make final award decisions.

(i) "Low–income" shall refer to the percentage of pupils deemed to be eligible for free/reduced meals as identified in the Free and Reduced Price meals data for the school on file at the California Department of Education.

(j) "New Construction Eligibility" means the result of the calculation determined in Education Code sections 17071.75 and 17071.76.

(k) "Nonprofit Entity" means an entity that is organized and operated for purposes of not making a profit under the provisions of the Internal Revenue Code section 501(c)(3), or is organized and operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, section 5110, et seq.

(l) "Program" means the Charter Schools Facilities Program, commencing with section 17078.52, et seq., of the Education Code.

(m) "Subgrantee" means an Applicant awarded grant funds on behalf of a charter school.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Sections 17078.52, 17180, 47605 and 47612.5, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order, including amendment of subsection (b), transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).
4. Amendment of subsections (a), (b), (g) and (i), new subsection (j) and subsection relettering filed 4–19–2007; operative 4–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).

§ 10177. Eligible Applicant.

Any Applicant shall be eligible to apply for a grant if all of the following conditions are met:

(a) An approved charter has been awarded and is in place and current at the time of application, and without interruption throughout the application review and approval process.

(b) The charter school is in good standing with its chartering authority and is in compliance with the terms of its charter at the time of application submission and without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter.

(c) The charter school has completed at least one school year of instructional operations under its current County–District–School (CDS) Code and charter number issued by the California Department of Education.

(d) The charter school is not a current recipient of funding through this article.

(e) At least eighty percent (80%) of the instructional time offered by the charter school shall be at the school site, and the charter school shall attain an average daily attendance rate of at least eighty percent (80%) based on the school's most recent CBEDS report.

(f) The charter school is established pursuant to Education Code section 47600, et seq., and also meets the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.

(g) The charter school admits students by lottery in the event more students want to attend the school than the school can accommodate.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Sections 17078.52 and 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including amendment of subsection (b), transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsections (b)-(c) filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
5. Amendment of subsections (a)-(c), repealer of subsection (d) and subsection relettering filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10178. Eligible Costs.

(a) Grant funds may be applied toward a charter school's cost of rent, lease, mortgage or debt service payments for existing or new facilities or toward the costs associated with the purchase or acquisition of land or the design, construction, or renovation of a facility.

(b) Grant funds must be used to pay current and future years' cost of renting or leasing a facility, for up to a three-year period. Awards may not be used to reimburse a charter school for costs incurred for any school year prior to the year in which the grant is awarded. In addition to documented evidence of an existing lease, rent, mortgage or debt obligation, the Authority reserves the right to evaluate prior year's facilities costs to determine eligibility for the current funding round.

(c) Grant funds may not be applied toward a school district's costs of providing a charter school with a facility.

(d) Grant funds may not be used to: 1) supplement a New Construction project funded through the Charter School Facilities Program; 2) make Charter School Facilities Program payments to the State; or 3) satisfy a Charter School Facilities Program recipient's local matching share.

(e) Grant funds must be expended and liquidated within the guidelines of this article and the State Charter School Facilities Incentive Grants Program.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including amendment of subsection (c), transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsection (d) filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
5. Amendment of subsection (a), new subsection (d) and subsection relettering filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10179. Maximum Grant.

(a) Grant awards that are used toward the annual cost of rent, lease, mortgage or debt service payments for existing or new facilities shall be based on the following:

(1) Per-pupil facilities aid for charter schools which shall be awarded to subgrantees in an amount of seven hundred and fifty dollars (\$750) per student based on the enrollment on file with the California Department of Education, not to exceed seventy five percent (75%) of the annual eligible costs for which the applicant is applying.

(2) No individual grant may exceed two hundred and fifty thousand dollars (\$250,000) per year, with a maximum grant period of up to three years.

(b) Grant awards that are used toward the purchase, design and construction, costs of land and facilities, shall be based on the following:

(1) Per-pupil facilities aid for charter schools which shall be awarded to subgrantees in an amount of one thousand dollars (\$1,000) per student based on the enrollment on file with the California Department of Education, not to exceed seventy five percent (75%) of the annual eligible costs for which the applicant is applying.

(2) No individual grant may exceed five hundred thousand dollars (\$500,000) per year, with a maximum grant period of up to three years.

(c) Grant awards, for up to a three-year period, will be reserved and apportioned from funds available in the year that the subgrantee is awarded funding.

(d) Grant funds that become available may be awarded to an alternate applicant from the most recent funding round until the next funding round commences, at which time any funds that become available will combined with the available funds for the new funding round.

(e) An organization comprised of more than one charter school may apply for more than one grant by submitting a separate application for each charter school.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including amendment of subsections (a)(1) and (b)(1), transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. New subsection (d) and subsection relettering filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).

§ 10180. Application Submission.

(a) Application for grant funds shall be made on a form prescribed by the Authority, and will be available as described below. The Authority will accept applications during the application periods described. One original and one duplicate application package shall be received by the Authority, during regular business hours, by the final filing date. Applications received after the final filing date for each funding round will not be accepted for review and will be returned to the applicant. Applications shall be considered complete and final as of the date submitted. No further information will be accepted after the final filing date for purposes of evaluating the application, unless otherwise determined by the Executive Director of the Authority. Review and evaluation of applications by staff shall be based solely upon the information contained in and submitted with the application at the time of filing, and supporting information obtained directly from other state and local agencies. For organizations with more than one charter school, a separate application is required for each charter school applying for a grant.

(b) Applications for the first funding round will be available by July 1, 2005. The final date to submit applications will be August 1, 2005. Specific availability and deadline dates will be posted on the Authority's Web site no later than June 30, 2005.

(c) Applications for all subsequent funding rounds will be available after January 15 of each year. The final date to submit applications will be March 1 of each year (or the first business day thereafter if March 1 falls on a Saturday or Sunday). Specific application availability and deadline dates for each funding round will be posted on the Authority's Web site by December 15 of each year.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL

by 2-14-2006 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 10-17-2005 order, including amendment of section, transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsections (a) and (c) filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).

§ 10181. Content of Application.

Completed applications and all attachments shall be submitted in duplicate to the Authority and shall include, but not be limited to, all of the following items.

- (a) Application (CSFA Form 05-01).
- (b) Copy of current charter agreement, and verification of the expiration date.
- (c) Evidence that the school is organized under section 501(c)(3) of the Internal Revenue Code, or is a nonprofit public benefit corporation pursuant to California Corporations Code section 5110, et seq., if applicable.
- (d) Copy of lease contract, rental agreement or other documentation verifying required payments and evidence that the term matches or exceeds the anticipated grant term.
- (e) A completed Legal Status Questionnaire submitted in the form set forth in CSFA 05-01.
- (f) For construction/renovation or purchase projects only, a detailed description of the project, including timelines, anticipated costs, bids, and other funding sources.
- (g) For construction/renovation or purchase projects only, proof of site control. Such proof may consist of (1) a current title report issued no more than 90 days prior to application showing ownership of the site; or (2) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the Applicant and the owner of the subject property, including evidence that all extensions are in place to keep the agreement current through the grant award date.
- (h) For construction/renovation or purchase projects only, evidence of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project.
- (i) Agreement and Certification. The applicant shall agree and certify under penalty of perjury to the following terms and conditions as a requirement of receiving any grant funds. The agreement and certification shall be executed by the charter school's executive director, principal, chair of the board, or another authorized individual and shall be included in the application.

(1) Applicant may be required to return all or a portion of the grant funds including any investment earnings if the applicant fails to use the funds as approved. In cases where the grant will fund architect, design, or engineering fees or land acquisition costs as part of a construction project, the applicant may be required to return all grant funds and any investment earnings if the Authority cannot determine the associated larger construction project has been completed, based on timelines provided within the application. Grant funds shall only be used by the subgrantee in the manner described in the application, unless the Authority approves a change in writing pursuant to section 10186.

(2) The applicant's project and financial records are subject to audit and inspection by the Authority and the Bureau of State Audits.

(3) Applicant has either disclosed all legal information as required in the Legal Status Questionnaire, or has no legal information to disclose.

(4) Applicant will notify the Authority in writing at the time of project completion with evidence of completion included.

(5) Applicant will provide all documents and information required by law and meets all necessary requirements prior to the release of any funds.

(6) Applicant is required to immediately notify the Authority of any material change to the charter school's enrollment, student performance, charter status, or financial condition.

(7) For all construction/renovation or purchase projects, a copy of the executed construction contracts and all required permits must be submitted no later than one year from the award date and prior to any disbursements.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including repealer of subsections (d)-(f) and (h) and subsection relettering, transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of first paragraph and subsections (c) and (g) filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
5. Amendment of subsections (b), (d), (f)-(h) and (i)(6)-(7) filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10182. Evaluation Criteria.

Preference points will be calculated for all eligible applications. An application shall receive preference points based on the total of (a), (b), (c), and (d), up to a maximum of 110 points, as follows:

(a) Low Income: Up to 60 points based on the percentage of pupils at the charter school meeting the definition of low-income. Preference points assigned shall be based on data collected and posted by the California Department of Education on its web site. The following sliding scale will be used to determine the number of preference points:

<i>Percentage Receiving Free/Reduced Lunch NA or unestablished</i>	<i>Preference Points Assigned</i>
1-15%	0
16-25%	2
26-30%	4
31-35%	8
36-40%	10
41-45%	14
46-50%	18
51-55%	22
56-60%	26
61-65%	28
66-70%	30
71-75%	34
76-80%	38
81-85%	42
86-87%	46
88-89%	50
90%	54
91%	55
92%	56
93%	56.5
94%	57
95%	57.5
96%	58
97%	58.5
98%	59
99%	59.5
100%	60

(b) Overcrowded School District: Up to 20 points if the school district where the charter school is physically located is determined to be overcrowded. The Percentage Overcrowded is determined by dividing the district's remaining New Construction Eligibility by its current enrollment (round up) and multiplying the product by 100. Charter schools located in districts that do not have current new construction eligibility established by the Office of Public School Construction, Department of General Services, will not be assigned any points in this category. The following sliding scale will be used to determine the number of preference points:

<i>Percentage Overcrowded</i>	<i>Preference Points Assigned</i>
Unestablished	0
1-2%	2
3-5%	4
6-10%	6
11-15%	8

<i>Percentage Overcrowded</i>	<i>Preference Points Assigned</i>
Unestablished	0
16–20%	10
21–25%	11
26–30%	12
31–35%	13
36–40%	14
41–45%	15
46%	16
47%	17
48%	18
49%	19
50% and above	20

(c) Nonprofit Entity: If the charter school or entity operating the charter school meets the definition of a nonprofit entity as defined in this article, the application will receive 20 preference points.

(d) Student Performance: If the charter school meets its Academic Performance Index (API) Growth Target for either Schoolwide or Comparable Improvement for the most recent year, the applicant will receive 10 preference points. Staff will rely on data posted on CDE's website when assigning points in this category.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Sections 17078.56 and 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order, including amendment of subsections (b) and (c), transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).
4. Amendment filed 4–19–2007; operative 4–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
5. Amendment of first paragraph and subsection (d) filed 3–24–2008; operative 4–23–2008 (Register 2008, No. 13).

§ 10183. Award Methodology.

(a) In each funding round, staff shall rank the applications based on the scores received, with the highest score ranking first. In the event that more than one application has the same overall score, the application with the highest percentage in the low-income category will receive a higher ranking. If more than one application has the same overall score as well as the same low-income percentage, the application with the highest points in the overcrowded school district category will receive a higher ranking. If application of the tiebreaker described above results in more than one application still having the same ranking, applications with the earliest mailing time will be given preference. Applications that are hand-delivered and do not have a mailing time will be given preference in this situation based on the time received by the Authority.

(b) If the application is not complete at the time of submission, the applicant will be notified and given a 24-hour period to provide the additional information. Failure to comply with the prescribed time period will result in a new date being assigned to the application for ranking purposes described above as of the date the additional information is received.

(c) For each funding round, the Authority shall make an initial award for each application, taking into account the ranking of all applications, the total amount of funds requested and the total amount of funds available. In the event total funds requested exceed total funds available, the Authority shall allocate funds beginning with the application scoring the highest ranking, and then proceed with the next highest rank until all funds have been awarded.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order, including amendment of subsection (a), transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).
4. Amendment of subsection (a) filed 4–19–2007; operative 4–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).

§ 10184. Approval of Grant and Notification of Subgrantee.

Allocations approved by the Authority at a regularly scheduled board meeting shall be awarded as grants to subgrantees. Subgrantees will be notified in writing within seven (7) business days of the board meeting of the amount of the grant and the disbursement schedule.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order, including amendment of section, transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

§ 10185. Obligation and Expenditure of Grant Funds.

Grant funds shall be used for the immediate needs of the designated project. Grant funds must be obligated and expended by the dates specified in the grant agreement. The funding period will be no more than three years, which means that all funds must be obligated no more than three years from when a grant is awarded and all funds must be liquidated no more than three years and 90 days from when the grant was awarded from the Authority.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

§ 10186. Approval of Grant Use Change.

The Authority may, on a case-by-case basis, consider a change in the use of the grant funds if the subgrantee demonstrates, to the Authority's satisfaction, that the change is consistent with the Program, the State Charter School Facilities Incentive Grants Program, and this Article.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order, including amendment of section, transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

§ 10187. Grant Agreements.

The terms and conditions of a grant shall be set forth in a grant agreement, which shall include, but not be limited to, all of the following terms and conditions:

- (a) The dates by which the grant funds must be legally obligated, expended and liquidated.

(b) A provision that any unspent grant funds and any unspent investment earnings on such grant funds shall revert to the Authority.

(c) Agreement to comply with this Article and federal requirements pertaining to the State Charter School Facilities Incentive Grants Program.

(d) Agreement that the subgrantee will defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liability of any kind or nature, whether direct or indirect, arising from or relating to the grant and the project or the Program.

(e) Agreement that the grant shall only be used for projects as described in the subgrantee's application and approved by the Authority.

(f) Any audit provisions as required by the Authority and/or the U.S. Department of Education.

(g) The charter school shall continuously maintain its good standing with the chartering authority and its compliance with the terms of the charter. The Authority reserves the right to contact the chartering authority directly seeking written verification that the school is in good standing and in compliance with the terms of its charter.

(h) Applicants are required to notify the Authority, within 30 days, of any material changes to the charter school's enrollment, charter status, nonprofit status, financial condition, or scope of the project that occurs between the time of application and the time of completing the project and submitting the final performance report.

(i) Current CBEDS are to be reported to the Authority within 30 days of each Information Day, until the time at which project completion and the final performance report is submitted.

(j) In the event that the charter school's charter is not renewed or is revoked at any time during the grant period, the subgrantee will advise the Authority within 30 days of notification of such action, including providing the Authority with a copy of the document provided by the chartering entity notifying the charter school of such action.

(k) All subgrantees are required to submit two copies of a final performance report within 60 days after the expiration or termination of grant support.

(l) The format of all performance reports will be provided by the Authority and will include information requested by the U.S. Department of Education.

(m) Any other provisions required by the Authority and/or the U.S. Department of Education.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including new subsection (g) and subsection relettering, transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsection (g) filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10188. Release of Funds.

(a) No grant funds shall be released until the grant agreement and supporting attachments have been provided and it has been determined by the Executive Director that the charter school continuously meets the requirements of the grant program.

(b) Applicants will be afforded two options for disbursement of grant funds, depending on the use of the grant award. Under the first option, charter schools shall apply annual grant funds toward the annual costs of rent, lease, mortgage or debt service payments over a three-year period, if such costs are sufficiently documented to the Executive Director's satisfaction. Under the second disbursement option, charter schools have the choice of applying grant funds (equal to a three-year award) toward

the costs of acquiring land and constructing or renovating a facility, if such costs are sufficiently documented to the Executive Director's satisfaction. Charter schools requesting the second option will be required to demonstrate a commitment toward the acquisition of a facility at the time of application. Such commitment may include, but not be limited to, verification of the charter school's possession of an option to purchase land and/or detailed project plans and drawings.

(c) Grant fund awards shall be released on the dates listed in the grant agreement.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order, including amendment of subsection (b), transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsections (a) and (b) filed 4-19-2007; operative 4-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).
5. Amendment of subsection (b) filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10189. Completion of Grant Funded Construction Project.

(a) The subgrantee shall certify to the Authority that the project is complete and, to the extent not already provided to the Authority, provide supporting documentation as follows:

(1) Construction and renovation projects require documentation including, but not limited to, copies of the certificate of occupancy, final payment certification by the architect, final payment request from the contractor and corresponding copies of cancelled checks. If the subgrantee does not provide copies of cancelled checks, the subgrantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(2) Real property acquisition projects require a copy of the final closing statement with certification by the title company, to be received by the Authority within 60 days of the disbursement of grant funds.

(b) If the subgrantee fails to complete the project within the project period, the Authority may require remedies, including forfeiture and return of all grant funds and any accrued interest thereon to the Authority.

(c) On a case-by-case basis, the Authority may extend the project period for extraordinary or unavoidable delays where the subgrantee can demonstrate that such delays occurred though no fault of the subgrantee.

(d) The Authority reserves the right to conduct site visits to any charter school facility or project receiving a grant pursuant to this Article.

(e) The Authority or Authority staff may seek third party verification regarding any and all applicable costs associated with the facility/project receiving a grant pursuant to this Article.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6-27-2005 as an emergency; operative 6-27-2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-17-2005 as an emergency; operative 10-17-2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-14-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-17-2005 order transmitted to OAL 2-8-2006 and filed 3-24-2006 (Register 2006, No. 12).
4. Amendment of subsections (a)(1)-(2) filed 3-24-2008; operative 4-23-2008 (Register 2008, No. 13).

§ 10190. Audits and Conflicts of Interest.

(a) The Authority and/or the Bureau of State Audits may conduct periodic audits to ensure subgrantees are using grant funds consistent with

the requirements and the terms of the Program, the State Charter School Facilities Incentive Grant, and this article as approved. Subgrantees shall retain all documentation and financial data necessary to substantiate the purposes for which the grant funds were spent for a period of three years after the certification of completion of the project has been submitted.

(b) Subgrantees must avoid apparent and actual conflicts of interest when administering grants from the U.S. Department of Education. Department regulations at 34 CFR 75.525(a) prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family members; and (b) the person is a public official or has a family or business relationship with the subgrantee. Section 75.525(b) provides further that a subgrantee may not permit any person participating in a project to use his or her position for a purpose that is — or gives the appearance of being — motivated by a desire for a private or financial gain for that person or for others.

(c) When using federal funds to enter into a contract, a State or local entity receiving a grant must comply with 34 CFR 80.36. These standards require federal grant subgrantees to develop written procurement procedures and to conduct all procurement transactions in a manner that provides, to the maximum extent possible, open and free competition. No employee, officer, or agent of the subgrantee may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.

(d) When these funds are used for construction-related activities costing over \$2,000, such as constructing a school building, renovating an existing owned school facility, or making leasehold improvements, any laborers and mechanics employed by contractors or subcontractors on the projects assisted with these federal funds must be paid in accordance with

prevailing wage requirements in the Davis–Bacon Act (40 USCA section 3142, et seq.).

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–17–2005 as an emergency; operative 10–17–2005 (Register 2005, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–14–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–17–2005 order transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

§ 10191. Funding Contingency.

(a) This grant program is contingent upon the receipt of funds in each budget period as scheduled by the U.S. Department of Education.

(b) Continuing apportionments to subgrantees will be contingent upon the subgrantee's eligibility to receive such apportionments.

NOTE: Authority cited: Sections 17179 and 17180, Education Code. Reference: Section 17180, Education Code.

HISTORY

1. New section filed 6–27–2005 as an emergency; operative 6–27–2005 (Register 2005, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2005 or emergency language will be repealed by operation of law on the following day.
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3. Certificate of Compliance as to 10–17–2005 order transmitted to OAL 2–8–2006 and filed 3–24–2006 (Register 2006, No. 12).

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Division 16. California Passenger Rail Financing Commission

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Division 16. California Passenger Rail Financing Commission

Article 1. Definitions

§ 10201. Terms.

The words and terms defined in Sections 92010 through 92017 of the Government Code shall have the same meaning when used in these Regulations. The following additional terms shall be used in the manner described below:

(a) "Act" means the California Passenger Rail Financing Commission Act, Title 11, commencing with Section 92000 et seq., of the Government Code.

(b) "Applicant" is any party which has submitted to the Commission a Letter of Intent and/or an Application or an Application for financing pursuant to these regulations to aid and assist in the development of a rapid train transportation system within the State.

(c) "Commission Member" means the members appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly, and the State Treasurer.

(d) "Commission Fund" means the California Passenger Rail Financing Commission Fund.

(e) "Bonds" means any negotiable bonds, notes, debentures, refunding bonds, or other securities which the Commission is authorized to issue pursuant to the Act.

(f) "Preliminary Application" means a request for financial assistance described by the Act, and supporting documents, submitted to the Commission by an Applicant in support of a request for an Initial Resolution.

(g) "Application for Financing" means the additional information describing the financing, as well as the necessary financing documents when available, required by and submitted to the Commission in support of a request for a Final Resolution, after the Commission has adopted an Initial Resolution.

(h) "Initial Resolution." A resolution adopted by the Commission indicating the intent of the Commission to provide financing for a project, provided that the Application meets all of the Commission's standards and requirements for approval. The Initial Resolution does not obligate the Commission to complete the financing of a project.

(i) "Final Resolution" means a resolution adopted by the Commission to provide for the issuance of the bonds in accordance with Section 92256 of the Act. The resolution shall include the provisions required by the Act, and in addition shall include a specific date by which time all indebtedness authorized by the Final Resolution must be issued, which date may be extended by the Commission.

(j) "Fee." A Fee is a payment required by the Commission from an Applicant for the review of a Letter of Intent, submission and/or an Application and Application for Financing.

(k) "Letter of Intent" means the written commitment of an Applicant to provide the Commission with required information, indemnify the Commission from all liability and to fund the cost of processing by the Commission of an Application and Application for Financing.

(l) "Start-up costs." Those necessary costs of the Commission and the Treasurer's office incurred prior to the submission of a Letter of Intent by any Applicant, which do not include costs specifically attributable to any individual Applicant.

NOTE: Authority cited: Section 92107, Government Code. Reference: Sections 92000, 92101, 92150, 92151, 92250, 92256 and 92304, Government Code.

HISTORY

1. New Chapter 16 (Sections 10201–10205) filed 4–25–86; effective thirtieth day thereafter (Register 86, No. 17).

Article 2. Procedures Relating to the Commission

§ 10202. Meetings.

(a) Meetings shall be held at the call of the Treasurer or his designee, subject to proper notice in accordance with Section 11125 et seq. of the Government Code except that the time of notice shall be mailed not less than 20 days from the meeting date.

(b) Meetings of the Commission shall be held in the Office of the Treasurer in Sacramento, unless some other location is designated in the notice by the Treasurer or his designee.

(c) At least three members, one of whom must be the Treasurer or his designee, shall constitute a quorum.

(d) The act of a majority of the Commission members present shall be the act of the Commission.

(e) An exclusive agenda of the meeting shall be transmitted to each member of the Commission with the notice of the meeting.

NOTE: Authority cited: Section 92107, Government Code. Reference: Section 92101, 92102 and 11125, Government Code.

§ 10203. Employees.

(a) The Treasurer shall appoint an executive secretary and other persons as are necessary to enable the Commission to carry out its power and purposes.

(b) The Treasurer shall, subject to Commission authorization, employ bond counsel, financial consultants and advisers as necessary in the performance of the functions of the Commission.

NOTE: Authority cited: Section 92107, Government Code. Reference: Section 92104, 92106 and 92110, Government Code.

Article 3. Receipt and Review of Requests for Financing

§ 10204. Procedures.

(a) The Commission shall accept requests for financing only in the form and in the manner specified in these Regulations:

(1) An Applicant shall submit a Preliminary Application to the Commission. The Preliminary Application shall include:

(A) A general description of the project, estimated schedule for completion and an estimate of the total amount of financing required and a request for financial assistance.

(B) A copy of the draft environmental studies and other reports prepared by the Applicant for submission to the lead agency responsible for preparation of the Environmental Impact Report (EIR), and to the lead agency responsible for preparation of an Environmental Impact Statement (EIS) to the extent and as it becomes available.

(C) A copy of the application to the Public Utility Commission for a Certificate of Public Convenience and Necessity.

(D) To the extent and as it becomes available, a copy of the Applicant's submittal to any other governing agency or approving body without whose permission the project cannot be completed, particularly submittal to agencies responsible for the environmental impact review or to the Public Utilities Commission requesting the issuance of a Certificate of Public Convenience and Necessity.

(E) The fee(s) as provided in Section 10205.

(F) Any additional information or representations the Applicant deems relevant or necessary for consideration of the request for financing by the Commission.

(G) Any other information the Commission deems as necessary or relevant to its consideration of the request for financing.

(2) Concurrent with, or prior to, the submission of a Preliminary Application, an Applicant shall submit a Letter of Intent, signed by an officer authorized to represent the Applicant whereby the Applicant:

(A) Agrees to pay all costs incurred by the Commission in connection with the review of information submitted in support of the request for financing or bond issuance;

(B) Agrees to pay the costs of preparation of any studies, reports or other documents requested to be prepared by or for the Commission;

(C) Agrees to pay Start-Up costs;

(D) Agrees to pay for the Commission's hiring of experts (financial, legal, engineering, etc.) which the Commission in its sole discretion decides to retain for purposes of evaluating the Application;

(E) Agrees to pay any and all costs incurred by the Commission in any legal action challenging the validity of any Commission action regarding the request for financing or the issuance of the bonds;

(F) Understands that the Commission in its sole discretion may determine not to approve a request for financing or determine not to proceed with a financing; and

(G) Agrees to indemnify, defend, and hold harmless the Commission from any and all claims, demands, causes of action, and liabilities arising or alleged to arise out of the financing of the project, the adoption of a resolution of intent, or the determination of the Commission, or any other entity, not to proceed with the financing of the project, and the Commission may require the Applicant to post a bond to assure the performance of the requirements of this paragraph.

(3) Upon receipt of the Application, and the Letter of Intent, the Commission shall within 60 days notify the Applicant of the Commission's acceptance of the Application and the Letter of Intent and its willingness to proceed or its non-acceptance and the reasons for non-acceptance. An Application is not received until it is completed to the extent possible, the Letter of Intent has been received, and the Commission has notified the submitter. Upon acceptance of the Letter of Intent, the Commission may issue an inducement resolution solely for the purposes of allowing the Applicant to incur costs which qualify under Section 103 of the Internal Revenue Code.

(4) Not less than 30 days nor more than 180 days following the approval (or certification) of the EIR and EIS for the project, the issuance of the Certificate of Public Convenience and Necessity, or the approval of any other governing agency or approving body without whose permission the project cannot be completed, whichever is obtained last, the Commission shall act on an Initial Resolution. The Applicant shall submit each such final approvals and reports, complete with any back-up material, as soon as available.

(5) Upon approval by the Commission of the Initial Resolution, the Applicant may submit an Application(s) for Financing.

(A) If portions of the financing are to be separately secured as to revenues, separately owned or operated by participating parties, or otherwise separate and distinct, the Applicant may submit an Application for Financing for each separate and distinct financing, and the Commission shall approve or disapprove each separate financing without prejudice to any other Application for Financing presented by a participating party.

(B) All Applications for Financing must be submitted within the time specified in the Initial Resolution, unless such time is extended by the Commission.

(C) The Application for Financing shall include a complete description of the financing requested, including a description of the security, bond funds, methods of marketing and such other information as the Commission shall require.

(6) Upon review and approval of the Commission of an Application for Financing, the Commission may adopt a Final Resolution authorizing the issuance of the bonds or other indebtedness or securities. In approving a project, the Commission may qualify its approval subject to conditions it deems reasonable and necessary.

(A) The Final Resolution shall be in full accordance with the Act and may include such findings, specifications, covenants, and information specified in Section 92256 of the Act, and shall include such other findings, specifications, covenants and information as deemed necessary or

relevant by the Commission, including the finding that the project is in the public interest and carries out the intent of the Act.

(B) No Final Resolution shall be adopted by the Commission except after a public hearing or hearings of the Commission noticed and held in accordance with Section 92259 of the Act and any other provisions of state or federal laws applicable to such issuance.

(C) The Final Resolution shall not be valid unless approved by a majority of the members of the Commission and also approved by the Treasurer.

(D) Prior to the delivery by the Commission of any bonds of an issue in return for the purchase price, the commission may summarily suspend any qualification or approval of such issue. Upon taking any such action, the Commission shall promptly notify each participating party of such action and of the reasons therefore and that upon the receipt of a written request of the participating party, or any other party involved in the issuance, the matter will be set for hearing to commence within 20 business days after such receipt unless the participating party consents to a later date. If no hearing is requested within 35 business days of notification to the participating party and none is ordered by the Commission, the Commission may summarily revoke the qualification or approval of the issuance, or modify or vacate the suspension, or extend it until final determination.

1. The Commission shall not suspend or revoke any qualification or approval of the bonds, once the bonds have been sold, absent extraordinary circumstances.

2. The Commission shall vacate or modify a suspension or revocation of qualification if it finds that the reasons for the suspension or revocation do not or no longer exist or that the reasons which do exist are not sufficient.

(7) In approving or disapproving an Application for financing, either in whole or in part, the Commission shall rely upon information submitted by applicants and applicants' representatives, and shall request additional information to be submitted by applicants, applicants' representatives, state and local agencies and independent consultants, including but not limited to financial advisors, accountants, engineers and architects.

(8) Prior to the approval of the Final Resolution, the form of all documents necessary to the transaction, including but not limited to bond documents, trust indentures, security agreements, legal opinions, and other such documents as the Commission requires, shall be available for Commission staff review.

NOTE: Authority cited: Section 92107, Government Code. Reference: Sections 92107, 92111, 92150, 92151, 92200, 92250 and 92257, Government Code.

§ 10205. Fees.

The Commission shall require Applicants to pay Fees commensurate with the Commission's direct expenses and those of the Treasurer for the receipt and review of the Letters of Intent, Application and Application for Financing, and for the issuance of bonds.

(a) The Fee to be submitted with the Letter of Intent shall be \$15,000, which Fee is not refundable upon notification to the Applicant of the Commission's acceptance of the Letter of Intent and its willingness to proceed. In the event that the Commission does not accept the Letter of Intent and is not willing to proceed, the Fee submitted with the Letter of Intent shall be refunded except that the Commission may deduct from such Fee an amount equivalent to the direct expenses of the Commission and the Treasurer in reviewing the Letter of Intent and its accompanying submissions.

(b) Upon Commission acceptance of the Letter of Intent the Commission shall charge the Applicant such additional Fees as are necessary for the Start-up and operating costs of the Commission.

(1) Such additional Fees shall be agreed upon and stated in the Letter of Intent or a contract between the Commission and the Applicant, and

shall not be refundable, except as provided in paragraph b(4) of this section.

(2) Such Fees shall be paid monthly, or on any other periodic basis as agreed to by the Commission and the Applicant.

(3) Such Fees shall be paid by the Applicant in advance of the incurring of expenses by the Commission.

(4) The Start-up costs of the Commission shall be prorated among all Applicants applying within three years of the initial meeting of the Commission. The Commission shall refund to earlier Applicants a prorated share of the Applicant's Fees attributed to Start-up costs upon payment of such Fees by later Applicants within the prescribed period.

(c) Upon Commission approval of an Initial Resolution, the Applicant shall continue to pay the additional Fees agreed upon in the Letter of Intent or contract.

(d) The final Application Fee shall be computed in accordance with the following schedule:

(1) If the public financing requested represents 20% or less of the total project costs, the Fee shall be \$500,000.

(2) If the public financing requested represents 21 to 40% of the total project costs, the Fee shall be \$750,000.

(3) If the public financing requested represents 41 to 60% of the total project costs, the Fee shall be \$1,000,000.

(4) If the public financing requested represents 61 to 80% of the total project costs, the Fee shall be \$1,250,000.

(5) If the public financing requested represents 81 to 100% of the total project costs, the Fee shall be \$1,500,000.

Total project costs shall include, but not necessarily be limited to, all costs of the construction of the project, including purchase of right-of-ways and equipment, finance charges, interest costs, and Fees.

(e) The final Application Fee shall be paid no later than the day of the delivery of the bonds.

(f) In addition to the Fees required above, the Applicant shall be required to pay all costs incurred by the Commission for the following:

(1) All costs in connection with the issuance of the bonds, including but not limited to, Bond Counsel's fees and disbursements, bond (and other) printing costs, and Trustee's fees from the proceeds of the bonds.

(2) The costs of preparation of any studies, reports, or other documents required to be prepared by or for the Commission in order to comply with any requirements of law and/or needed to evaluate the Application.

(3) Any and all costs incurred by the Commission in any legal action challenging the validity or issuance of the bonds.

(4) These categories of costs described in this section are illustrative rather than exhaustive.

(g) In the event that an Application, during any phase, is not approved, or in the event that bonds are not issued for any reason, the Applicant is responsible for any costs incurred, and any Fees paid are not refundable, except as the Commission determines that Fees advanced to the Commission by the Applicant have not been expended in the review of the Application.

NOTE: Authority cited: Section 92107, Government Code, Reference: Sections 92150, 92153, 92200, 92304 and 92306, Government Code.

* * *

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Title 4. Business Regulations

**Division 17. California Tax Credit Allocation Committee
Regulations Implementing the Federal and State
Low-Income Housing Tax Credit Laws**

Vol. 5

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Division 17. California Tax Credit Allocation Committee Regulations Implementing the Federal and State Low-Income Housing Tax Credit Laws

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Division 17. California Tax Credit Allocation Committee Regulations Implementing the Federal and State Low-Income Housing Tax Credit Laws

Chapter 1. Federal and State Low-Income Housing Tax Credit

§ 10300. Purpose and Scope.

These regulations establish procedures for the reservation, allocation and compliance monitoring of the Federal and State Low-Income Housing Tax Credit Programs ("Housing Tax Credit Programs", "Programs", or individually, "Federal Program" or "State Program") and establish policies and procedures for use of the Tax Credits to meet the purposes contained in Section 252 of Public Law No. 99-514 (October 22, 1986), known as the Federal Tax Reform Act of 1986, as amended, and Chapter 658, California Statutes of 1987, as amended, and Chapter 1138, California Statutes of 1987, as amended.

Internal Revenue Code ("IRC") Section 42 provides for state administration of the Federal Program. California Health and Safety (H & S) Code Sections 50199.4 through 50199.22, and California Revenue and Taxation (R & T) Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 establish the California State Program and designate the California Tax Credit Allocation Committee ("CTCAC") as the Housing Credit Agency to administer both the Federal and State Housing Tax Credit programs in California. These regulations set forth the policies and procedures governing the Committee's management of the Programs. In addition to these regulations, program participants shall comply with the rules applicable to the Federal Program as set forth in Section 42 and other applicable sections of the Internal Revenue Code. In the event that Congress, the California Legislature, or the IRS add or change any statutory or regulatory requirements concerning the use or management of the Programs, participants shall comply with such requirements.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Amendment of subsections (a), (n), and (p) and new subsections (j), (m) and (r) and subsection renumbering filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refiled 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refiled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refiled 6-15-93 as an emergency, including amendment of subsection (g); operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refiled 10-6-93 as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of HISTORY 10 (Register 93, No. 41).
13. Repealer and new section refiled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refiled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section refiled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
16. Repealer and new section refiled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refiled 1-17-95 as an emergency, including amendment of NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refiled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
19. New section refiled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
20. New section, including amendment of section and NOTE, refiled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
21. New section refiled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
22. New section, including amendment of subsection (v) refiled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
23. Repealer and new section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
24. Amendment of subsection (b) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
25. Change without regulatory effect adding new chapter 1 heading filed 10-6-98 pursuant to section 100, title 1, California Code of Regulations; operative 3-26-99 pursuant to Revenue and Taxation Code section 12206 (Register 98, No. 41).
26. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
27. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).

28. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
29. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
30. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
31. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
32. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
33. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
34. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10302. Definitions.

- (a) **AHP.** The Affordable Housing Program of the Federal Home Loan Bank.
- (b) **Allocation.** The certification by the Committee of the amount of Federal, or Federal and State, Credits awarded to the applicant for purposes of income tax reporting to the IRS and/or the California Franchise Tax Board ("FTB").
- (c) **Applicable Credit Percentage.** The monthly rate, published in IRS revenue rulings pursuant to IRC Section 42(b)(2)(A), applicable to the Federal Program for purposes of calculating annual Tax Credit amounts.
- (d) **Capital Needs Assessment or CNA.** The physical needs assessment report required for all rehabilitation projects, described in Section 10322(i)(4)(B).
- (e) **Chairperson.** The Chairperson of the California Tax Credit Allocation Committee.
- (f) **Committee.** The California Tax Credit Allocation Committee ("CTCAC") or its successor.
- (g) **Community Foundation.** A local foundation organized as a public charity under section 509(a)(1) of the Internal Revenue Code.
- (h) **Compliance Period.** That period defined by IRC Section 42(i)(1) and modified by R & T Code Section 12206(h), and further modified by the provisions of these regulations.
- (i) **Credit(s).** Housing Tax Credit(s), or Tax Credit(s).
- (j) **Credit Ceiling.** The amount specified in IRC Section 42(h)(3)(C) for Federal Program purposes (including the unused credits from the preceding calendar year, the current year's population based credits, returned credits and national pool credits), and in R & T Code Section 17058(g) for State Program purposes.
- (k) **CTCAC.** California Tax Credit Allocation Committee.
- (l) **Developer Fee.** All Funds paid at any time as compensation for developing the proposed project, to include all development consultant fees, processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.
- (m) **Development Team.** The group of professionals identified by the applicant to carry out the development of a Tax Credit project, as identified in the application pursuant to subsection 10322(h)(5).

(n) **Eligible Project.** A proposed 9% Tax Credit project that has met all of the Basic Threshold Requirements and Additional Threshold Requirements described in Sections 10325(f) and (g) below.

(o) **Executive Director.** The executive director of the California Tax Credit Allocation Committee.

(p) **Federally Subsidized.** As defined by IRC Section 42(i)(2).

(q) **Federal Credit.** The Tax Credit for low-income rental housing provided under IRC Section 42 and implemented in California by the Committee.

(r) **Financial Feasibility.** As required by, IRC Section 42(m)(2), and further defined by these regulations in Section 10327.

(s) **FTB.** State of California Franchise Tax Board.

(t) **Hard construction costs.** The amount of the construction contract, excluding contractor profit, general requirements and contractor overhead.

(u) **Housing And Community Development Funds.** Federal HOME and/or CDBG funds administered by the state Department of Housing and Community Development, for which the Department has made a funding reservation.

(v) **IRS.** United States Internal Revenue Service.

(w) **Local Development Impact Fees.** The amount of impact fees, mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utility districts, school districts, water agencies, resource conservation districts, etc.

(x) **Local Reviewing Agency.** An agency designated by the local government having jurisdiction, that will perform evaluations of proposed projects in its locale according to criteria set forth by the Committee.

(y) **Low-Income Unit.** As defined by IRC Section 42(i)(3).

(z) **Market-Rate Unit.** A unit other than a Low-Income Unit as defined by these regulations.

(aa) **MHP.** Multifamily Housing Program of California's Department of Housing and Community Development.

(bb) **Neighborhood Revitalization Area.** An area, other than one in the Rural set-aside, that is part of a neighborhood revitalization strategy area designated by the U.S. Department of Housing and Urban Development, an Empowerment Zone, Enterprise Community, Renewal Community, is part of an area that has been designated by a local agency to be the focus of revitalization or similar efforts.

(cc) **Net Tax Credit Factor.** The estimated or actual equity amount raised or to be raised from a tax credit syndication or other instrument, not including syndication related expenses, divided by the total amount of Federal and State Tax Credits reserved or allocated to a project. The calculation must include the full ten-year amount of Federal Tax Credits and the total amount of State Tax Credits.

(dd) **QAP.** The "Low Income Housing Tax Credit Program Qualified Allocation Plan," adopted by the Committee on December 11, 1997 in accordance with the standards and procedures of IRC Section 42(m)(1)(B).

(ee) **Qualified Nonprofit Organization.** An organization that meets the requirements of IRC Section 42(h)(5), whose exempt purposes include the development of low-income housing as described in IRC Section 42, and which, if a State Tax Credit is requested, also qualifies under H & S Code Section 50091.

(ff) **RHS.** United States Rural Housing Service, formerly Rural Housing and Community Development Service or RHCDS, formerly Farmers Home Administration or FmHA

(gg) **Related Party.**

(1) The brothers, sisters, spouse, ancestors, and direct descendants of a person;

(2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;

(3) two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which

(A) stock is held by the same persons or entities for

1. at least 50% of the total combined voting power of all classes that can vote, or

2. at least 50% of the total value of shares of all classes of stock of each of the corporations or

3. at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;

(B) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;

(C) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;

(D) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.

(4) a grantor and fiduciary of any trust;

(5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(6) a fiduciary of a trust and a beneficiary of that trust;

(7) a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;

(8) a person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;

(9) a corporation and a partnership or joint venture if the same persons own more than:

(A) 50% in value of the outstanding stock of the corporation; and

(B) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;

(10) one S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;

(11) an S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;

(12) a partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or

(13) two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

The constructive ownership provisions of IRC Section 267 also apply to subsections 1 through 13 above. The more stringent of regulations shall apply as to the ownership provisions of this section.

(hh) Rent-Restricted Units. Units meeting the requirements of IRC Section 42(g)(2).

(ii) Reservation. As provided for in H & S Code Section 50199.10(e) the initial award of Tax Credits to an Eligible project. Reservations may be preliminary or final. Reservations may be conditional.

(jj) Rural. An area defined in H & S Code Section 50199.21.

(kk) State Credit. The Tax Credit for low-income rental housing provided by the Revenue and Taxation Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5.

(ll) Tax-Exempt Bond Project. A project that meets the definition provided in IRC Section 42(h)(4).

(mm) Tax forms. Income tax forms for claiming Tax Credits: for Federal Tax Credits, IRS Form 8609; and, for State Tax Credits, FTB Form 3521A.

(nn) Threshold Basis Limit. The aggregate limit on amounts of unadjusted eligible basis allowed by the Committee for purposes of calculating Tax Credit amounts. These limits are published by CTCAC in its Application Supplement, by unit size and project location, and are based

upon mortgage limits published by the U. S. Department of Housing and Urban Development for the 221(d)(3) program. Local Development Impact Fees as defined in section 10302 of these regulations shall be excluded from this calculation if the fees are documented in the application submission by the entities charging such fee.

(oo) Waiting List. A list of Eligible Projects approved by CTCAC following the last application cycle of any calendar year, pursuant to Section 10325(h) below.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Amendment of subsections (f), (t) and (u), new subsections (w)-(w)(xiii), subsection relettering, and amendment of newly designated subsections (aa) and (bb) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
3. Repealer of subsection (c), new subsections (o) and (s), subsection relettering and amendment of newly designated subsection (gg) filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
4. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
5. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment adding new subsection (n) and subsequent section relettering (Register 2000, No. 14).
6. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
7. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
8. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
9. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
10. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
15. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
16. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10305. General Provisions.

(a) Meetings. The Committee shall meet on the call of the Chairperson.

(b) Report. At each meeting of the Committee at which Tax Credit reservations from the Credit Ceiling are made, the Executive Director shall make a report to the Committee on the status of the Federal and State Tax Credits reserved and allocated.

(c) Forms. CTCAC shall develop such forms as are necessary to administer the programs and is authorized to request such additional information from applicants as is appropriate to further the purposes of the Programs. Failure to provide such additional information may cause an application to be disqualified or render a reservation null and void.

(d) Tax Credit Limitations. No applicant shall be eligible to receive Tax Credits if, together with the amount of Federal or State Tax Credits being requested, the applicant would have, in the capacity of individual owner, corporate shareholder, general partner, sponsor, developer or housing consultant, received a reservation or allocation greater than fifteen percent (15%) of the total Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year.

(e) Allocation Limit. No one project applying for 9% Tax Credits may receive an allocation of more than Two Million (\$2,000,000) Dollars in annual Federal Tax Credits in any one funding round, except for projects receiving a waiver of unit size under Section 10325(f)(9)(C) of these regulations, in which case the maximum annual Federal Tax Credits reserved to any one project in any one funding round shall not exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.

(f) Notification. Upon receipt of an application, CTCAC shall notify the Chief Executive Officer (e.g., city manager, county administrative officer) of the local jurisdiction within which the proposed project is located and provide such individual an opportunity to comment on the proposed project (IRC Section 42(m)(1)(ii)).

(g) Conflicting provisions. These regulations shall take precedence with respect to any and all conflicts with provisions of the QAP or other guidance provided by the Committee. This subsection shall not be construed to limit the effect of the QAP and other guidance in cases where said documents seek to fulfill, without conflict, the requirements of federal and state statutes pertaining to the Tax Credit Programs.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4–50199.22, Health and Safety Code.

HISTORY

1. New section filed 7–30–90 as an emergency; operative 7–17–90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11–14–90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7–30–90 filed 11–26–90; operative 11–13–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
3. Readoption of emergency action filed 11–26–90, filed 1–4–91 as an emergency; operative 12–18–90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4–17–91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions filed 11–26–90 and 1–4–91 as an emergency filed 4–19–91 as an emergency; operative 3–28–91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3–28–91 order transmitted to OAL 7–16–91 and filed 8–15–91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Repealer and new section filed 7–1–92 as an emergency; operative 5–15–92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–2–92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section refilled 11–9–92 as an emergency; operative 8–31–92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3–9–93 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refilled 1–28–93 as an emergency; operative 12–29–92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5–28–93 or emergency language will be repealed by operation of law on the following day.

9. Repealer and new section refilled 6–15–93 as an emergency; operative 4–2–93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7–31–93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refilled 10–6–93, with amendment of subsection (c), as an emergency; operative 7–21–93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11–18–93 or emergency language will be repealed by operation of law on the following day.
11. Editorial correction of HISTORY 9 (Register 93, No. 41).
12. Repealer and new section refilled 12–20–93 as an emergency; operative 11–18–93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3–18–94 or emergency language will be repealed by operation of law on the following day.
13. Repealer and new section refilled with amendments 5–3–94 as an emergency; operative 1–25–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5–25–94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refilled 6–29–94 as an emergency; operative 5–28–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
15. Repealer and new section refilled 10–24–94 as an emergency; operative 9–22–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1–20–95 or emergency language will be repealed by operation of law on the following day.
16. Repealer and new section refilled 1–17–95 as an emergency, including amendment of NOTE; operative 1–20–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–22–95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refilled 7–7–95 as an emergency; operative 5–20–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9–17–95 or emergency language will be repealed by operation of law on the following day.
18. New section refilled 7–17–95 as an emergency; operative 5–25–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9–22–95 or emergency language will be repealed by operation of law on the following day.
19. New section, including amendment of NOTE, refilled 3–18–96 as an emergency; operative 9–22–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1–20–96 or emergency language will be repealed by operation of law on the following day.
20. New section refilled 3–18–96 as an emergency; operative 9–26–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1–24–96 or emergency language will be repealed by operation of law on the following day.
21. New section refilled 3–18–96 as an emergency; operative 10–30–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2–27–96 or emergency language will be repealed by operation of law on the following day.
22. Repealer and new section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
23. Amendment of subsection (d) filed 7–26–99; operative 6–3–99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
24. Readoption of emergency action filed 7–26–99, operative 6–3–99; filed 4–3–2000 as an emergency; operative 10–12–99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
25. Readoption of emergency action filed 4–3–2000, operative 10–12–99; filed 4–3–2000 as an emergency; operative 2–9–2000 pursuant to Health and Safety Code section 50199.17, with amendment of subsection (c) (Register 2000, No. 14).
26. Emergency readoption without change filed 9–22–2000 of an action originally filed 4–3–2000; operative 6–9–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
27. Emergency readoption without change filed 10–23–2000 of an action originally filed 4–3–2000; operative 9–27–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
28. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
29. Emergency readoption without change filed 11–19–2001 of an action most recently filed 3–5–2001; operative 9–17–2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
30. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5–8–2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior

emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.

31. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
32. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
33. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
34. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
35. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
36. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10310. Reservations of Tax Credit.

(a) Reservation cycles. The Committee shall reserve Tax Credits on a regular basis in accordance with H. & S Code Section 50199.14(a), pursuant to these regulations and the QAP, incorporated by reference in full.

(b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle shall be established by the Committee at a public meeting designated for that purpose, in accordance with the following provisions:

(1) Amount of Federal Tax Credits. The amount of Federal Tax Credits available for reservation in a reservation cycle shall be equal to the sum of:

(A) the per capita amount authorized by law for the year, plus or minus the unused, Federal Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount allocated, and available, under IRC Section 42(h)(3)(D) as of the date that is thirty days following the application deadline for said cycle;

(C) the amount of Federal Credit Ceiling returned, and available, as of the date that is thirty days following the application deadline for said cycle; and,

(D) additional amounts of Federal Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

(2) Amount of State Tax Credits. The amount of State Tax Credits available for reservation in a reservation cycle shall be equal to:

(A) the amount authorized by law for the year, less any amount set-aside for use with certain tax-exempt bond financed projects, plus the unused State Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount of State Credit Ceiling returned, and available, by the date that is thirty days following the application deadline for said cycle; plus,

(C) additional amounts of State Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

(3) Waiting List Tax Credits. Tax Credits returned and Tax Credits allocated under IRC Section 42(h)(3)(D) during any calendar year, and not made available in a reservation cycle, shall be made available to applications on Committee Waiting Lists, pursuant to subsection 10325(h).

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Amendment filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refilled 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refilled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refilled 6-15-93 as an emergency; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refilled 10-6-93, with amendment of subsection (a), as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of HISTORY 10 (Register 93, No. 41).
13. Repealer and new section refilled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refilled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section refilled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
16. Repealer and new section refilled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refilled 1-17-95 as an emergency, including amendment of subsection (a) and NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refilled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
19. New section refilled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
20. New section, including amendment of NOTE, refilled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
21. New section refilled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate

of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.

22. New section refiled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
23. Repealer and new section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
24. Amendment of subsection (b)(2)(B) and repealer of subsection (c) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
25. Change without regulatory effect amending subsection (b)(2)(A) filed 10-6-98 pursuant to section 100, title 1, California Code of Regulations; operative 3-26-99 pursuant to Revenue and Taxation Code section 12206 (Register 98, No. 41).
26. Amendment filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
27. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
28. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
29. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
30. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
31. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
32. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
33. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
34. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
35. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
36. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refiled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
37. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10315. Set-Asides and Apportionments.

(a) Nonprofit set-aside. Ten percent (10%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects involving, over the entire restricted use period, Qualified Nonprofit Organizations as the only general partners and developers, as defined by these regulations, and in accordance with IRC Section (42)(h)(5).

(b) Homeless assistance apportionment. In each reservation cycle, fifty percent (50%) of the Nonprofit set-aside shall be made available to projects assisted, under U.S. Code Title 42 Chapter 119 Subchapter IV

Part E — Miscellaneous Provisions, Assistance for Single Room Occupancy Dwellings or U.S. Code Title 42 Chapter 119 Subchapter IV Part F—Shelter Plus Care Program or U.S. Code Title 42 Chapter 131—Housing Opportunities for Persons With AIDS. If rental assistance is the type of assistance provided by the above named programs, the rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than thirty percent (30%) of the units in the proposed project. Any amount of Tax Credits apportioned by this subsection and not reserved during a reservation cycle shall be available for applications qualified under the Non-profit set-aside.

(c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. Projects located in a census tract marked with an asterisk are subject to confirmation by RHS and approval by CTCAC as to their rural status. All Projects located in eligible census tracts defined by this Section must compete in the rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless:

(1) They qualify and choose to compete in the At-risk or Small Development set-aside, in which case they will no longer be considered rural and will be evaluated as non-rural projects for purposes of these regulations; or

(2) The Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year, in which case the rural project may receive an reservation in the last round for the year, from the geographic region in which it is located, if any.

(d) RHS program apportionment. In each reservation cycle, fourteen percent (14%) of the rural set-aside shall be available for new construction projects which have a funding commitments from RHS of at least \$1,000,000 from either RHS's Section 514 Farm Labor Housing Loan Program, or RHS's Section 515 Rural Rental Housing Loan Program, or RHS's Section 538 Guaranteed Rural Rental Housing Loan Programs, in the following priority order:

- First, to projects with RHS funding commitments accompanied by an "obligation" (as that term is used by RHS) of Section 521 Rental Assistance for at least 50% of the project units (excluding non-restricted management units);
- Second, to projects for which the Section 514, 515, or 538 funding commitment is an "obligation" (as that term is used by RHS);
- Third, to projects for which the Section 514, 515, or 538 funding commitment is a "NOFA selection for further processing" but not an "obligation" (as those terms are used by RHS.)

Any amount reserved under this subsection for which RHS funding does not become available in the calendar year in which the reservation is made, or any amount of Credit apportioned by this subsection and not reserved during a reservation cycle shall be available for applications qualified under the Rural set-aside.

Beginning the second round of 2006, the presence of a Section 538 funding commitment alone will not enable a project to compete under the RHS program apportionment. Rather, such projects will compete under the general rural set-aside.

(e) Small Development set-aside. Two percent (2%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects of twenty (20) or fewer units.

(f) "At-Risk" set-aside. Five percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify as "At risk" pursuant to these regulations.

(g) Special Needs/SRO set-aside. In addition to the homeless assistance apportionment in subsection (b) above, two percent (2%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects that qualify as Special Needs or Single Room Occupancy projects pursuant to these regulations. Any project that applies and is eligible under the homeless assis-

tance apportionment but is not funded, will be eligible to be considered under this Special Needs/SRO set-aside.

(h) Supplemental Set-Aside. An amount equal to three percent (3%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be held back to fund overages that occur in the second funding round set-asides and/or in the Geographic Apportionments because of funding projects in excess of the amounts available to those Set Asides or Geographic Apportionments, the funding of large projects, such as HOPE VI projects, or other Waiting List or priority projects. In addition to this initial funding, returned Tax Credits and unused Tax Credits from Set Asides and Geographic Apportionments will be added to this Supplemental Set Aside, and used to fund projects at year end so as to avoid loss of access to National Pool credits.

(i) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below and must meet the applicable "additional threshold requirements" of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will attempt to fund Federal Credit awards in each funding round in the approximate following percentages:

<i>Housing Type</i>	<i>Goal</i>
Large Family	65%
Single Room Occupancy	10%
"At Risk"	5%
Special Needs	5%
Seniors	15%

(j) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall be made in approximately the amounts shown below:

<i>Geographic Area</i>	<i>Apportionment</i>
Los Angeles County	33%
Central (Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties)	10%
Alameda, Contra Costa, Marin, Napa, Solano, Sonoma Counties	10%
San Diego County	10%
Inland Empire (San Bernardino, Riverside, Imperial Counties)	8%
Orange County	8%
San Mateo and Santa Clara Counties	6%
Capital/Northern Area (Butte, El Dorado, Placer, Sacramento Shasta, Sutter, Yuba, Yolo Counties)	6%
Coastal California (Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura Counties)	5%
San Francisco County	4%

(k) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after the Supplemental Set-Aside has been deducted from the annual Credit Ceiling and the Set-Aside calculations for non-profit homeless assistance, rural, and special needs/SRO have been made.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions and amendment of subsection (c) filed 11-26-90, and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register

- 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Amendment of subsections (b) and (c) filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refilled 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refilled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refilled 6-15-93 as an emergency; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refilled 10-6-93 as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of HISTORY 10 (Register 93, No. 41).
13. Repealer and new section refilled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refilled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section refilled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
16. Repealer and new section refilled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refilled 1-17-95 as an emergency, including amendment of subsections (a) and (b) and NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refilled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
19. New section refilled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
20. New section, including amendment of section and NOTE, refilled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
21. New section refilled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
22. New section refilled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
23. Repealer and new section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
24. Repealer of subsection (a)(1), subsection renumbering, amendment of subsections (b), (e) and (e)(2)-(4), and new subsection (g) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
25. Amendment filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).

26. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
27. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section heading and section (Register 2000, No. 14).
28. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
29. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
30. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
31. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
32. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
33. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
34. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
35. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
36. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
37. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refiled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
38. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10317. State Tax Credit Eligibility Requirements.

(a) General. In accordance with the R & T Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, there shall be allowed as a Credit against the "tax" (as defined by R & T Code Section 12201) a State Tax Credit in an amount equal to the amount determined in the Revenue and Taxation Code, computed in accordance with IRC Section 42, except as otherwise provided in applicable sections of the R & T Code.

(b) Allocation of Federal Tax Credits required. State Tax Credit recipients shall have first been awarded Federal Tax Credits, or shall qualify for Tax Credits under Section 42(h)(4)(b), as required under H & S Code Section 50199.14(e) and the R & T Code Section 12206(b)(1)(A).

(c) Limit on Credit amount. The combined amount of Federal State Tax Credits allocated to a building shall be limited to the lesser of the amount of State Credits pursuant to R & T Code Section 12206(c) plus the amount of Federal Tax Credits allocated under Section 42 computed on one hundred percent (100%) of the qualified basis of the building, or the amount sufficient for financial feasibility.

(d) Allocation Priorities. The Committee shall give equal priority when allocating State Tax Credits to applications proposing projects with one or more of the following characteristics:

(1) not eligible for the 130% basis adjustment, pursuant to IRC Section 42(d)(5)(C);

(2) HUD HOME program funds are a source of funds, and eligible basis is limited to the amount of unadjusted basis; or,

(3) HUD HOME program funds are a source of funds and State Tax Credits are needed to satisfy HOME program fund match requirements. The local jurisdiction or Community Housing Development Organization shall provide an explanation why other sources are not available to provide matching funds.

(e) State Tax Credit exchange. Applications for projects not possessing one of the allocation priorities described in subsection (d) may also include a request for State Tax Credits. During any reservation cycle and/or following any reservation or allocation of State Tax Credits to all applications meeting the above allocation priorities, remaining balances of State Tax Credits may be awarded to applicants having received a reservation of Federal Tax Credits during the same year, in exchange for the "equivalent" amount of Federal Tax Credits. Said exchanges shall be offered at the discretion of the Executive Director, and shall be offered to applications following the order of their selection in the Tax Credit competitions.

(f) Acquisition Tax Credits. State Tax Credits for acquisition basis are allowed only for projects meeting the definition of a project "at risk of conversion," pursuant to Section 42 and R & T Code Section 17058(c)(4).

(g) Tax-Exempt Bond Financing. Projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(b) of the IRC, and Section 10326 of these regulations may apply for State Tax Credits if the following conditions are met:

(1) the project is comprised of 100% tax credit eligible units, excluding managers' units;

(2) the project is not eligible for the 130% basis adjustment;

(3) the project has or will have a current year's tax-exempt bond allocation: That is, that State Tax Credits will not be available to projects that have already received a reservation of 4% credit in the previous year; and

(4) the applicant must demonstrate, by no later than the application-filing deadline, that a tax-exempt bond allocation has been received or applied for prior to submitting under this subsection for State Tax Credits.

(h) Allocations. The following parameters apply:

(1) An amount equal to fifteen percent (15%) of the annual State Tax Credit authority will be available for bond financed projects;

(2) The project will be competitively scored under the system delineated in Section 10325(c)(2) through (5) and (8) through (12), except that the only tie breaker shall be the third tie-breaker enumerated at Section 10325(c)(12) of these regulations;

(3) The highest scoring applications under this scoring system will be recommended for receipt of State Tax Credits, without regard to any set-asides or geographic areas, provided they meet the threshold requirements of Section 10326;

(4) If the 15% set-aside has not been reserved prior to year end it may be used in a State Tax Credit exchange for projects that have received 9% Tax Credit reservations;

(5) The Committee may reserve an amount in excess of the 15% set-aside of State Tax Credits for tax-exempt bond financed projects if State Credits remain available after funding of competitive projects in the second funding round; and

(6) The Committee may reject any or all applications if, in the sole discretionary opinion of the Committee, it is determined that no project meets the minimum point requirements established by the Committee prior to the Committee meeting.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue & Taxation Code; and Sections 50199.4–50199.22, Health and Safety Code.

HISTORY

1. New section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Amendment of subsections (a)–(c), (d)(1) and (f) filed 7–21–98; operative 11–20–97 and 12–11–97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
3. New subsection (g) filed 4–3–2000 as an emergency; operative 2–9–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
4. Emergency readoption without change filed 9–22–2000 of an action originally filed 4–3–2000; operative 6–9–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
5. Emergency readoption without change filed 10–23–2000 of an action originally filed 4–3–2000; operative 9–27–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
6. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
7. Emergency readoption with amendment of subsection (c) filed 11–19–2001 of an action most recently filed 3–5–2001; operative 9–17–2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
8. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5–8–2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
9. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4–26–2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
10. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7–19–2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12–16–2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4–4–2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
13. Emergency readoption of action adopted by the Committee 2–16–2005 and filed with the Secretary of State 4–4–2005; refilled 11–1–2005; readopted by the Committee and effective 9–28–2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
14. Emergency adoption filed 3–23–2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1–18–2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10320. Actions by the Committee.

(a) Meetings. Except for reservations made pursuant to Section 10325(h) of these Regulations, Reservations of Tax Credits shall occur only at scheduled meetings of the Committee, which shall announce application–filing deadlines and the approximate dates of reservation meetings as early in the year as possible.

(b) Tax Credits and ownership transfers. No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without prior written approval of the Executive Director. Said approvals shall not be unreasonably withheld. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(3)(K), in addition to other remedies.

(1) Any transfer of project ownership or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.

(2) The entity acquiring ownership or Tax Credits shall be subject to a “qualifications review” by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee upon request.

(c) False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(3) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4–50199.22, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–30–90 as an emergency; operative 7–17–90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11–14–90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7–30–90 filed 11–26–90; operative 11–13–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
3. Readoption of emergency action filed 11–26–90, filed 1–4–91 as an emergency; operative 12–18–90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4–17–91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions filed 11–26–90 and 1–4–91 as an emergency filed 4–19–91 as an emergency; operative 3–28–91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3–28–91 order transmitted to OAL 7–16–91 and filed 8–15–91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Amendment of subsections (a), (d) and (e) filed 3–16–92 as an emergency; operative 1–16–92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7–14–92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section filed 7–1–92 as an emergency; operative 5–15–92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–2–92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refilled, with amendment of subsection (b), 11–9–92 as an emergency; operative 8–31–92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3–9–93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refilled 1–28–93 as an emergency; operative 12–29–92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5–28–93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refilled 6–15–93 as an emergency; operative 4–2–93 pursuant to Health and Safety Code 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7–31–93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refilled 10–6–93 as an emergency; operative 7–21–93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11–18–93 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of HISTORY 10 (Register 93, No. 41).
13. Repealer and new section refilled 12–20–93 as an emergency; operative 11–18–93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3–18–94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refilled with amendments 5–3–94 as an emergency; operative 1–25–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5–25–94 or emergency language will be repealed by operation of law on the following day.

15. Repealer and new section refiled 6–29–94 as an emergency; operative 5–28–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
16. Repealer and new section refiled 10–24–94 as an emergency; operative 9–22–94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1–20–95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refiled 1–17–95 as an emergency, including amendment of subsection (e) and NOTE; operative 1–20–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–22–95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refiled 7–7–95 as an emergency; operative 5–20–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9–17–95 or emergency language will be repealed by operation of law on the following day.
19. New section refiled 7–17–95 as an emergency; operative 5–25–95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9–22–95 or emergency language will be repealed by operation of law on the following day.
20. New section, including amendment of section and NOTE, refiled 3–18–96 as an emergency; operative 9–22–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1–20–96 or emergency language will be repealed by operation of law on the following day.
21. Editorial correction inserting inadvertently omitted last sentence of subsection (b) (Register 96, No. 13).
22. New section refiled 3–18–96 as an emergency; operative 9–26–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1–24–96 or emergency language will be repealed by operation of law on the following day.
23. New section refiled 3–18–96 as an emergency; operative 10–30–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2–27–96 or emergency language will be repealed by operation of law on the following day.
24. Repealer and new section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
25. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
26. Emergency readoption without change filed 11–19–2001 of an action most recently filed 3–5–2001; operative 9–17–2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
27. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5–8–2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
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30. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12–16–2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
31. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4–4–2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
32. Emergency readoption of action adopted by the Committee 2–16–2005 and filed with the Secretary of State 4–4–2005; refiled 11–1–2005; readopted by the Committee and effective 9–28–2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
33. Emergency adoption filed 3–23–2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1–18–2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10322. Application Requirements.

(a) Separate Application. A separate application is required for each project.

(b) Application forms. Applications shall be submitted on forms provided by the Committee. Applicants shall submit the most current Committee forms and supplementary materials in a manner, format, and number prescribed by the Committee.

(c) Late application. Applications received after an application–filing deadline shall not be accepted.

(d) Incomplete application. Applications not meeting all Basic Threshold Requirements or relevant Additional Threshold (Housing Type) Requirements shown in Sections 10325(f) and (g) or any other application submission requirements described in these Regulations, shall be considered incomplete, and shall be disqualified from receiving a reservation of Tax Credits during the cycle in which the application was determined incomplete. An applicant shall be notified by the Committee should its application be deemed incomplete and the application will not be scored.

(e) Complete application. Determination of completeness, compliance with all Basic and Additional Thresholds, and the scoring of the application shall be based entirely on the documents contained in the application as of the final filing deadline. No additional documents pertaining to the Basic or Additional Threshold Requirements or scoring categories shall be accepted after the application–filing deadline unless the Executive Director, at his or her sole discretion, determines that the deficiency is a clear reproduction or application assembly error, or an obviously transposed number. In such cases, applicants shall be given up to five (5) business days from the date of receipt of staff notification, to submit said documents to complete the application. For threshold omissions other than reproduction or assembly errors, the Executive Director may request additional clarifying information from third party sources, such as local government entities, but this is entirely at The Executive Director's discretion. Applicants submitting applications with missing, incomplete or inconsistent documents not related to Basic or Additional Thresholds or scoring criteria described in Section 10325(c), shall be given five (5) business days, from the date of receipt of Committee notification, to submit said documents to complete the application. The applicant may be required to certify that all evidentiary documents deemed to be missing from the application had been executed on or prior to, the application–filing deadline. If required documents are not submitted within the time provided, the application shall be considered incomplete and no appeal will be entertained.

(f) Application changes. An application may not be changed, nor may any additional information with respect to scoring or meeting the Basic or Additional Threshold Requirements be submitted subsequent to the application filing deadline.

(g) Applications not fully evaluated. Incomplete applications or others not expected to receive a reservation of Tax Credits due to relatively low scores, may or may not be fully evaluated by the Committee.

(h) Standard application documents. The following documentation relevant to the proposed project is required to be submitted with all applications:

(1) Applicant's Statement. A signed, notarized statement signifying the responsibility of the applicant to:

(A) provide application related documentation to the Committee upon request;

(B) be familiar with and comply with Credit program statutes and regulations;

(C) hold the Committee and its employees harmless from program–related matters;

(D) acknowledge the potential for program modifications resulting from statutory or regulatory actions;

(E) acknowledge that Credit amounts reserved or allocated may be reduced in some cases when the terms and amounts of project sources and uses of funds are modified;

(F) agree to comply with laws outlawing discrimination;

(G) acknowledge that the Committee has recommended the applicant seek tax advice;

(H) acknowledge that the application will be evaluated according to Committee regulations, and that Credit is not an entitlement;

(I) acknowledge that continued compliance with program requirements is the responsibility of the applicant;

(J) acknowledge that information submitted to the Committee is subject to the Public Records Act;

(K) agree to enter with the Committee into a regulatory contract if Credit is allocated; and,

(L) acknowledge, under penalty of perjury, that all information provided to the Committee is true and correct, and that applicant has an affirmative duty to notify the Committee of changes causing information in the application or other submittals to become false.

(2) The Application form. Completion of all applicable parts of Committee-provided application forms which shall include, but not be limited to:

(A) General Application Information

(i) Credit amounts requested

(ii) minimum set-aside election

(iii) application stage selection

(iv) set-aside selection

(v) housing type

(B) Applicant Information

(i) applicant role in ownership

(ii) applicant legal status

(iii) developer type

(iv) contact person

(C) Development Team Information

(D) Subject Property Information

(E) Proposed Project Information

(i) project type

(ii) Credit type

(iii) building and unit types

(F) Land Use Approvals

(G) Development Timetable

(H) Identification and Commitment Status of Fund Sources

(I) Identification of Fund Uses

(J) Calculation of Eligible, Qualified and Requested Basis

(K) Syndication Cost Description

(L) Syndicator Contacts

(M) Determination of Credit Need and Maximum Credit Allowable

(N) Project Income Determination

(O) Restricted Residential Rent and Income Proposal

(P) Subsidy Information

(Q) Operating Expense Information

(R) Projected Cash Flow Calculation

(S) Basic Threshold Compliance Summary

(T) Additional Threshold Selection

(U) Tax-exempt Financing Information

(V) Market Study

(3) Organizational documents. All applicable proposed or executed organizational documents of the applicant entity, including a detailed plan describing the ownership role of the applicant throughout the low-income use period of the proposed project.

(4) Designated contact person. A contract between the applicant and the designated contact person for the applicant signifying the contact person's authority to represent and act on behalf of the applicant with respect to the Application. The Committee reserves its right to contact the applicant directly.

(5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:

(A) Developer;

(B) general contractor;

(C) architect;

(D) attorney;

(E) tax professional;

(F) property management company;

(G) consultant;

(H) market analyst and/or appraiser; and

(I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the 150 day deadline described in Section 10325(c)(10).

(6) Identities of interest. Identification of any persons or entities (including affiliated entities) that plan to provide development or operational services to the proposed project in more than one capacity, and full disclosure of Related Parties, as defined.

(7) Legal description. A legal description of the subject property.

(8) Site Layout, Location, Unique Features and Surrounding Areas.

(A) A narrative description of the current use of the subject property;

(B) A narrative description of all adjacent property land uses, the surrounding neighborhood, and identification and proximity of services, including transportation

(C) Labeled photographs, or color copies of photographs of the subject property and all adjacent properties;

(D) A layout of the subject property, including the location and dimensions of existing buildings, utilities, and other pertinent features.

(E) A site or parcel map indicating the location of the subject property and showing exactly where the buildings comprising the Tax Credit Project will be situated. (If a subdivision is anticipated, the boundaries of the parcel for the proposed project must be clearly marked; and

(F) A description of any unique features of the site, noting those that may increase project costs or require environmental mitigation.

(9) Market Studies. A full market study prepared within 180 days of the filing deadline by an independent 3rd party having no identity of interest with the development's partners, intended partners, or any other member of the Development Team described in Subsection (5) above. The study must meet the current market study guidelines distributed by the Committee, and establish both need and demand for the proposed project. If the market study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive Tax Credits.

(10) Construction and design description. A detailed narrative description of the proposed project construction and design, including how the design will serve the targeted population.

(11) Architectural drawings. Preliminary drawings of the proposed project, including a site plan, building elevations, and unit floor plans (including square footage of each unit). The project architect must certify that the development will comply with building codes and the physical building requirements of all applicable fair housing laws. The site plan shall identify all areas or features proposed as project amenities, laundry facilities, recreation facilities and community space. Drawings shall be to a scale that clearly shows all requested information. Blueprints need not be submitted.

(12) Placed-in-service schedule. A schedule of the projected placed-in-service date for each building.

(13) Identification of local jurisdiction. The following information related to the local jurisdiction within which the proposed project is located:

(A) jurisdiction (e.g., City of Sacramento)

(B) chief executive officer and title (e.g., Susan Smith, City Manager)

(C) mailing address

(D) telephone number

(E) fax number

(14) Sources and uses of funds. The sources and uses of funds description shall separately detail apportioned amounts for residential space and commercial space.

(15) Financing plan. A detailed description of the financing plan, and proposed sources and uses of funds, to include construction, permanent, and bridge loan sources, and other fund sources, including rent or operating subsidies and reserves. The commitment status of all fund sources shall be described, and non-traditional financing arrangements shall be explained.

(16) Eligible basis certification. A certification from a certified public accountant or tax attorney that project costs included in applicant's calculation of eligible basis are allowed by IRC Section 42, as amended, and are presented in accordance with standard accounting procedures. This must be delivered on the tax professional's corporate letterhead, in the prescribed CTCAC format. If the project uses HOME Investment Partnership Program funds, then the tax professional must further certify as to the treatment of HOME Program funds for purposes of eligible basis calculations.

(17) Use of tax benefits description. If the Tax Credits are not to be offered to investors, a detailed explanation of how the tax benefits will be used by the applicant.

(18) Terms of syndication agreement. Written estimate(s) from syndicator(s) or financial consultants on their corporate letterhead and in the prescribed CTCAC format, of equity dollars expected to be raised for the proposed project, based on the amount of Tax Credits requested, including gross and net proceeds, pay-in schedules, syndication costs (including syndicator consulting fees), and an estimated net tax Credit factor, for both Federal and State Tax Credits if both are to be used or if State Tax Credits exchange points are requested.

(19) Tax Credit certification. If the Tax Credits are not to be syndicated, a letter from a certified public accountant establishing the Tax Credit actor.

(20) Utility allowance estimates. Current utility allowance estimates in the form of a letter from the local public housing authority, verifying that the proposed project is located in its jurisdiction and that the utility allowance schedule provided is current (ref: IRS Final Regulations T.D. 8520). The applicant must indicate which components of the utility allowance schedule apply to the project.

(21) Certification of subsidies. The applicant must certify as to the full extent of all Federal, State, and local subsidies which apply (or for which the taxpayer expects to apply) with respect to the proposed project. (IRC Section 42(m)(2)(C)(ii)) If rental assistance, operating subsidies or annuities are proposed, all related commitments that secure such funds must be provided. The source, annual amount, term, number of units receiving assistance, and expiration date of each subsidy must be included.

(22) Cash flow projection. A 15-year projection of project cash flow. Separate cash flow projections shall be provided for residential and commercial space. If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects, SRO projects, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

(23) Self-scoring sheet as provided in the application.

(i) Additional Subsequent application documents. In addition to all above requirements of this Section, the following documentation relevant to the proposed project is required to be submitted with applications having certain characteristics, as described below:

(1) Final Reservation application. Applicants proposing a final reservation application shall provide the following:

(A) the company name and contact person, address, telephone number, and fax number of the:

- (i) general contractor, and
- (ii) syndication firm or investor;

(B) an executed construction contract;

(C) recorded deeds of trust for all construction loan financing;

(D) a current title report (dated no later than 30 days before the application deadline or no earlier than January 1st of the year in which the build-

ing must be placed-in-service as provided in section 10328(c), whichever applies);

(E) binding commitments for permanent financing;

(F) binding commitments for any other financing required to complete project construction;

(G) a construction lender trade payment breakdown of approved construction costs; and,

(H) an executed partnership agreement, or if not yet executed, a commitment letter between the applicant and investor verifying the expected equity raise, pay-in schedule and costs of syndication;

(I) building permits;

(J) completed Final Reservation Status Report Form provided by the Committee;

(K) a detailed explanation of any changes from the initial application; and

(L) an updated development timetable as of Final Reservation filing date.

The Executive Director may waive any of the above submission requirements if not applicable to the proposed project.

(2) Placed-in-service application. Upon completion of construction of the proposed project, the applicant shall submit documentation including an executed regulatory agreement provided by CTCAC and the compliance monitoring fee required by Section 10335. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs, must be explained by the applicant in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:

(A) certificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;

(B) an audited certification, prepared by a Certified Public Accountant under generally accepted accounting principles, with all disclosures and notes. This certification shall:

(1) reflect all costs, expenditures and funds used for the project, as identified by the certified public accountant, up to the funding of the permanent loan; and

(2) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan.

(C) an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;

(D) photographs of the completed building(s);

(E) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;

(F) a certification from the syndicator of equity raised and syndication costs in a Committee-provided format;

(G) a project ownership profile on a Committee-provided form;

(H) a detailed description of the services currently provided to tenants including copies of contracts for such services. If services are not available at the time of submission, a description of the proposed services and a timetable for the provision of those services;

(I) a copy of any cost certification submitted to, required by and/or approved by RHS or any other lender;

(J) a list of all amenities provided at the project site, and color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided;

(K) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;

(L) If applicable, a certification from a tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds

for projects that received Tax Credits under the provisions of Section 10326 of these regulations;

(M) a certification from the owner that all of the minimum construction standards of Sections 10325(f)(7) and 10326(g)(6) have either been met or waived pursuant to these regulations;

(N) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;

(O) a certification from the project architect that the physical buildings are in compliance with all applicable building codes and applicable fair housing laws; and

(P) a certification from the project architect that the sustainable building methods of section 10325(c)(8) have been incorporated into the project, if applicable.

The Executive Director may waive any of the above submission requirements if not applicable to the proposed project.

(3) Acquisition Tax Credits application. Applicants requesting acquisition Tax Credits shall provide:

(A) a chain of title report;

(B) a tax professional's opinion stating that the acquisition meets the requirements of IRC Section 42(d)(2)(B)(ii) as to the 10-year placed-in-service rule; and,

(C) if a waiver of the 10-year ownership rule is necessary, a letter from the appropriate Federal official that states that the proposed project qualifies for a waiver under IRC Section 42(d)(6).

(4) Rehabilitation application. Applicants proposing rehabilitation of an existing structure shall provide:

(A) an "as-is" appraisal prepared within 120 days before or after the execution of a purchase contract or the transfer of ownership for the property by all the parties by a California certified appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee, and that includes, at a minimum, the following:

(i) the highest and best use value of the proposed project as residential rental property;

(ii) the Sales Comparison Approach, and Income Approach valuation methodologies except in the case of an adaptive reuse or conversion, where the Cost Approach valuation methodology shall be used;

(iii) the appraiser's reconciled value except in the case of an adaptive reuse or conversion as mentioned in (ii) above;

(iv) a value for the land of the subject property "as if vacant";

(v) an on site inspection; and

(vi) A purchase contract verifying the sales price of the subject property. The "as if vacant" land value and the existing improvement value established at application, as well as the eligible basis amount derived from those values will be used during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits.

(B) A Capital Needs Assessment ("CNA") performed within 180 days prior to the application deadline that details the condition and remaining useful life of the building's major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, distinguishing between immediate and long term repairs. The Capital Needs Assessment will also include a 15-year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately, and the reserve contributions needed to fund those replacements. The CNA must be prepared by the project architect, as long as the project architect has no identity of interest with the developer, or a sponsor, or by a qualified independent 3rd party who has no identity of interest with any of the members of the Development Team. If a waiver of any requirement of the minimum construction standards delineated in section 10325(f)(7) and section 10326(g)(6) is requested, the assessment must show, to the satisfaction of the Executive Director, that meeting the requirement is un-

necessary and financially burdensome, and that the money to be spent in rehabilitating other project features will result in a better end product.

Subsections (A) and (B) above shall not apply if the project previously received an reservation of Tax Credits and these requirements were met in the original application.

(5) Acquisition of Occupied Housing application. Applicants proposing acquisition of occupied rental residential housing shall provide income, rent and family size information for the current tenant population.

(6) Tenant relocation plan. Applicants proposing rehabilitation of occupied housing shall provide an explanation of the relocation requirements, a detailed relocation plan including a budget with an identified funding source, and, where applicable, evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act and has been submitted to the appropriate local agency.

(7) Owner-occupied Housing application. Applicants proposing owner-occupied housing projects of four units or less, involving acquisition or rehabilitation, shall provide evidence from an appropriate official substantiating that the building is part of a development plan of action sponsored by a State or local government or a qualified nonprofit organization (IRC Section 42(i)(3)(E)).

(8) Nonprofit Set-Aside application. Applicants requesting Tax Credits from the Nonprofit set-aside, as defined by IRC Section 42(h)(5), shall provide the following documentation with respect to each developer and general partner of the proposed owner:

(A) IRS documentation of designation as a 501(c)(3) or 501(c)(4) corporation;

(B) proof of designation as a nonprofit corporation under Heath and Safety Code Section 50091;

(C) proof that one of the exempt purposes of the corporation is to provide low-income housing;

(D) a detailed description of the nonprofit participation in the development and ongoing operations of the proposed project, as well as an agreement to provide CTCAC with annual certifications verifying continued involvement;

(E) a third party legal opinion verifying that the nonprofit organization is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination; and,

(F) a third party legal opinion certifying that the applicant is eligible for the Nonprofit Set-Aside pursuant to IRC Section 42(h)(5).

(9) Rural Set-Aside application. Applicants requesting Tax Credits from the Rural set-aside, as defined by H & S Code Section 50199.21 and Section 10315(c) of these regulations, shall provide verification that the proposed project is located in an eligible rural area. (Evidence that project is located in an area eligible for financing from RHS shall be a letter from RHS.)

(10) RHS Section 514, 515 or 538 program applications. Rural housing applicants requesting Tax Credits from amounts made available for projects financed by the RHS Section 514, 515 or 538 program shall submit evidence from RHS that such funding has been requested, obligated or committed as defined by RHS.

(11) HOME funds match. Applicants requesting State Tax Credits to match HOME funds shall provide a letter from the local jurisdiction stating why local matching funds are not being provided.

(j) Re-application. Proposals submitted under Section 10326 of these regulations do not require new applications for minor changes in costs or Tax Credits alone. Committee staff will normally adjust the Credit amount for projects requesting Tax Credit increases under Section 10326 only at one time, when the placed-in-service package is received and reviewed by Committee staff. However, reapplication is required and applications will be reviewed if the Executive Director deems it necessary to have the Committee take formal action due to substantial changes or an extraordinary increase in Tax Credits requested. For applications initially approved after February 1, 2005, "Substantial changes" for this

purpose will mean any significant change in unit mix, number of buildings or building layout, or development cost increases greater than 20% of the original costs, and an “extraordinary increase” in Tax Credits will mean an increase greater than 15% of the original reservation amount. It is the applicant’s responsibility to notify CTCAC of any such changes and when CTCAC is notified accordingly, new applications may be required. Reapplications at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the first year’s credit amount. For all other projects, except in unusual, extreme cases such as fire, or act of God, where a waiver of this subsection is permitted by the Executive Director, a re-application for a development that has already received a Tax Credit reservation or allocation shall be evaluated as an entirely new application, and shall be required to return its previously reserved or allocated Tax Credits prior to or simultaneously with its new application. All re-applications shall be subject to negative points under Section 10325(c)(3) if applicable (for example, a project that does not meet the original placed-in-service deadline would receive negative points hereunder). Re-applications shall be subject to the regulations in effect at the time the re-application is submitted. For projects submitted under Section 10326 of these regulations that are requesting additional Tax Credits, the basis limits to be used in the final underwriting shall be those in effect during the year the development is placed-in-service.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4–50199.22, Health and Safety Code.

HISTORY

1. New section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Editorial correction of subsection (i)(4) (Register 98, No. 30).
3. Amendment of subsections (i)(1)(I), (i)(2)(D), (i)(6), (i)(20) and (j)(1)(G), repealer of subsection (j)(1)(H), subsection relettering, amendment of subsections (j)(4)(A), (j)(8)(A), (j)(8)(D)–(E), new subsection (j)(8)(F) and amendment of subsection (k) filed 7–21–98; operative 11–20–97 and 12–11–97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
4. Amendment filed 7–26–99; operative 6–3–99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
5. Readoption of emergency action filed 7–26–99, operative 6–3–99; filed 4–3–2000 as an emergency; operative 10–12–99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
6. Readoption of emergency action filed 4–3–2000, operative 10–12–99; filed 4–3–2000 as an emergency; operative 2–9–2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
7. Emergency readoption without change filed 9–22–2000 of an action originally filed 4–3–2000; operative 6–9–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
8. Emergency readoption without change filed 10–23–2000 of an action originally filed 4–3–2000; operative 9–27–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
9. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR’S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
10. Emergency readoption without change filed 11–19–2001 of an action most recently filed 3–5–2001; operative 9–17–2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5–8–2003 (Register 2003, No. 19).
EDITOR’S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4–26–2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7–19–2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12–16–2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
15. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4–4–2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
16. Emergency readoption of action adopted by the Committee 2–16–2005 and filed with the Secretary of State 4–4–2005; refiled 11–1–2005; readopted by the Committee and effective 9–28–2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
17. Emergency adoption filed 3–23–2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1–18–2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10325. Application Selection Criteria—Credit Ceiling Applications.

(a) General. All applications not requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4)(b) and Section 10326 of these Regulations (for buildings financed by tax-exempt bonds) shall compete for reservations of Credit Ceiling amounts during designated reservation cycles. Further, no project that has a pending application for a private activity bond allocation or that has previously received a private activity bond allocation will be eligible to compete under the Credit Ceiling competition for Federal Tax Credits unless it receives a waiver from the Executive Director.

(b) Authority. Selection criteria shall include those required by IRC Section 42(m), H & S Code Section 50199.14, and R & T Code Sections 12206, 17058, and 23610.5.

(c) Credit Ceiling application competitions. Applications received in a reservation cycle, and competing for Federal and/or State Tax Credits, shall be scored and ranked according to the below-described criteria, except as modified by Section 10317(g) of these regulations. The Committee shall reserve the right to determine, on a case by case basis, under the unique circumstances of each funding round, and in consideration of the relative scores and ranking of the proposed projects, that a project’s score is too low to warrant a reservation of Tax Credits. All point selection categories shall be met in the application submission through a presentation of conclusive, documented evidence to the Executive Director’s satisfaction. Point scores shall be determined solely on the application as submitted, including any additional information submitted in compliance with these regulations. Further, a project’s points will be based solely on the current year’s scoring criteria and submissions, without respect to any prior year’s score for the same projects.

SCORING

(1) Leveraging

(A) Cost efficiency. A project application for a new construction or an At-Risk development, or a substantial rehabilitation development where the hard costs of rehabilitation are at least \$40,000 per unit, whose total eligible basis is below the maximum permitted threshold basis limits after permitted adjustments, shall receive 1 point for each percent by which its eligible basis is below the maximum permitted adjusted threshold basis limit.

(B) Credit reduction. A project that reduces the amount of Tax Credits it is requesting shall receive 1 point for each percent that its qualified basis is reduced. In order to receive points in this category, committed funds must be part of the permanent sources for the development and remain in place for at least ten years.

(C) Public funds. For purposes of scoring, “public funds” include federal, state, or local government funds, including the outstanding principal balances of prior direct federal debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction, funds from a local community foundation, funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP), waivers resulting in quantifiable cost savings that are not required by federal or state law, or the value of land donated or leased by

a public entity or donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline. Land and building values must be supported by an independent, third party appraisal consistent with the guidelines in Section 10322(i)(4)(A). All such public fund commitments shall receive 1 point for each 1 percent of the total development cost funded. To receive points under this subsection for loans, loans must be "soft" loans, having terms in excess of 15 years, and below market interest rates, interest accruals, residual receipts payments or other preferred terms for at least the first fifteen years of their terms. Points for donated or leased land shall be calculated based on the lesser of the purchase price or appraised value, except that points for land owned by the public entity for more than three years prior to the application filing deadline shall be calculated based on its appraised value. Further, for points to be awarded under this subsection, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. Similarly, if the principal balances of any prior publicly funded or subsidized loans are to be assumed in the course of a proposed acquisition, verification of approval of the loan assumption or other required procedure by the agency initially approving the subsidy will be needed to satisfy the commitment requirements.

A maximum of 20 points shall be available in combining the cost efficiency, credit reduction, and public funds categories. However, in order to score the full 20 points, at least 2 points must be achieved by each applicant in the credit reduction category.

(2) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

(A) General partner experience. To receive points under this subsection for projects in existence for over 3 years, the applicant must submit a certification from a certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared (which must be effective no more than one year prior to the application deadline) and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. This certification must list the specific projects for which the points are being requested. The certification of the certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline. Where there is more than 1 general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

1-2 projects in service under 3 years	1 point/over 3 years	2 points
3-6 projects in service under 3 years	3 points/over 3 years	4 points
7 or more projects in service under 3 years	5 points/over 3 years	6 points

(B) Management Company experience

2-5 projects in service under 3 years	0.5 point/over 3 years	1 point
6-10 projects in service under 3 years	1.5 points/over 3 years	2 points
11 or more projects in service under 3 years	2.5 points/over 3 years	3 points

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For maximum points in either subsection (A) or (B) above, a completed previous participation form for the general partner or for the management agent, respectively must be provided in the application. For points to be awarded in subsec-

tion (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. "Projects" as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. Alternatively, a management company that provides evidence that the agent to be assigned to the project (either on-site or with management responsibilities for the site) has been certified prior to the application deadline pursuant to a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee, may receive 2 points. These points may substitute for other management company experience but will not be awarded in addition to such points.

(3) Negative points. Negative points, up to a total of 10 for each project and/or each violation, may be given at the Executive Director's discretion for general partners, co-developers, management agents, consultants, guarantors, or any member or agent of the Development Team as described in Section 10322(g)(5) for items including, but not limited to:

(A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;

(B) failure to utilize Tax Credits within program time guidelines, including failure to meet the 150 day readiness requirements, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;

(C) failure to request Forms 8609 for new construction projects within one year from the date the last building in the project is placed-in-service, or for acquisition/rehabilitation projects, one year from the date on which the rehabilitation was completed;

(D) removal or withdrawal under threat of removal as general partner from a housing tax credit partnership;

(E) failure to provide physical amenities or services or any other item for which points were obtained (unless funding for a specific services program promised is no longer available);

(F) failure to correct serious noncompliance after notice and cure period within an existing housing tax credit project in California;

(G) repeated failure to submit required compliance documentation for a housing Tax Credit project located anywhere;

(H) material misrepresentation of any fact or requirement in an application;

(I) failure of a building to continuously meet the terms, conditions, and requirements received at its certification as being suitable for occupancy in compliance with state or local law, unless it is demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside the control of the owner;

(J) failure to submit a copy of the owner's completed 8609 showing the first year filing;

(K) failure to properly notify CTCAC and obtain prior approval of general or limited partner changes, transfer of a Tax Credit project, or allocation of the Federal or State Credit; or

(L) certification of site amenities, distances or service amenities that were, in the Executive Director's sole discretion, inaccurate or misleading.

Negative points given to general partners, co-developers, management agents, consultants, or any other member or agent of the Development Team may remain in effect for up to two calendar years, but in no event will they be in effect for less than one funding round. Furthermore, they may be assigned to one or more Development Team members, but do not necessarily apply to the entire Team. Negative points assigned by

the Executive Director may be appealed to the Committee under appeal procedures enumerated in Section 10330.

(4) Housing Needs. (Points will be awarded only in one category listed below) The category selected hereunder shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(12) below.

Large Family Projects	10 points
Single Room Occupancy projects	10 points
Special Needs Projects	10 points
Seniors Projects	10 points
At-Risk Projects	10 points

(5) Amenities beyond those required as additional thresholds

For site amenities and service amenities combined.

Maximum 25 points

(A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application, except under the Balanced Communities Subsection, where the funds for the amenity must be committed and the amenity is planned to be complete when the project is placed in service. Distances must be measured using a standardized radius from the development site determined by the Committee but must not include physical barriers. No more than 15 points will be awarded in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1–9) listed below. Amenities may include:

1. Transit Amenities

The project is part of a transit-oriented development strategy where there is a transit station, rail station, commuter rail station, or bus station, or bus stop within 1/4 mile from the site with service at least every 30 minutes during the hours of 7–9 a.m. and 4–6 p.m., and the project's density will exceed 25 units per acre

7 points

The site is within 1/4 mile of a transit station, rail station, commuter rail station or bus station, or bus stop with service at least every 30 minutes during the hours of 7–9 a.m. and 4–6 p.m.

6 points

The site is within 1/3 mile of a bus stop with service at least every 30 minutes during the hours of 7–9 a.m. and 4–6 p.m.

5 points

The site is located within 500 feet of a regular bus stop, or rapid transit system stop. (For rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided)

4 points

The site is located within 1,500 feet of a regular bus stop or rapid transit system stop

3 points

Multiple bus lines may not be aggregated for the above points.

2. The site is within 1/4 mile of a public park (1/2 mile for Rural set-aside projects) (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district providing availability to the general public of the school grounds and/or facilities) or a community center accessible to the general public

3 points

or within 1/2 mile (1 mile for Rural set-aside projects)

2 points

3. The site is within 1/4 mile of a public library (1/2 mile for Rural set-aside projects)

3 points

or within 1/2 mile (1 mile for Rural set-aside projects)

2 points

4. The site is within 1/4 mile of a full scale grocery store/supermarket where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural set-aside projects or projects located in inner cities)

4 points

or within 1/2 mile (1 mile for Rural set-aside projects or projects located in inner cities)

3 points

or site is within 1/4 mile of a convenience market where staples are sold

2 points

5. For a Large Family development, the site is within 1/4 mile of a public elementary, middle, or high school that children living in the development may attend (1/2 mile for Rural set-aside projects)

3 points

or within 1/2 mile (1 mile for Rural set-aside projects)

2 points

6. For a Senior Development, the site is within 1/4 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (1/2 mile for Rural set-aside projects)

3 points

or within 1/2 mile (1 mile for Rural set-aside projects)

2 points

7. For a Special Needs or SRO development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development

3 points

or within 1 mile

2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic, or hospital (not merely a private doctor's office)

3 points

the site is within 1 mile (for Rural set-aside projects 1.5 miles) of a medical clinic or hospital

2 points

9. The site is within 1/4 mile of a pharmacy (for Rural projects, 1/2 mile).

2 points

or within 1/2 mile (1 mile for Rural projects)

1 point

(B) Service Amenities: Amenities must be appropriate to the tenant population served and committed for a minimum of 10 years. Physical space for such amenities must be available when the development is placed-in-service, and the amenities must be available within 6 months of the project's placed-in-service date. To receive points in this category, programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be provided on-site except that projects applying as Small Developments, or other projects may use off-site services within 1/2 mile of the development provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points. Contracts with service providers, service provider experience, evidence that physical space will be provided, and a budget reflecting how the services will be paid for must be included in the application. Having a bona fide service coordinator (not the on-site manager, for example) may count for 5 points in this category, provided that the experience of the coordinator, the duties of the coordinator, and a budget to pay for the coordinator are included in the application. No more than 10 points will be awarded in this category. Amenities may include, but are not limited to:

1. High speed internet service provided in each unit (as stated above, free of charge to the tenants)

5 points

2. After school programs of an ongoing nature for school age children

5 points

3. Educational classes (such as ESL, computer training, etc.) but which are not the same as in 2 above.

5 points

4. Licensed child care providing 20 hours or more per week (Monday through Friday) to residents of the development

5 points

5. Contracts for services, such as assistance with activities of daily living, or provision of counseling services, where a contract is in place at the time of application (only for senior, SRO and Special Needs Projects)

5 points

6. Bona fide service coordinator available

5 points

(6) Neighborhood Revitalization. These points will not be available to projects applying under the Rural set-aside.

A development must be located in a Neighborhood Revitalization area, as defined in Section 10302(bb) of these regulations where demonstrable evidence, satisfactory to the Executive Director, is submitted showing that a neighborhood revitalization plan has been adopted and specific efforts towards achieving the plan's goals have occurred. Plans should be specific to the neighborhood, and efforts undertaken may in-

clude, but are not limited to, existing partnership coalitions with public entities, private sector enterprises, and/or nonprofit community organizations; financing commitments for work to be done in the neighborhood; and/or commencement of a specific neighborhood project. Each application for neighborhood revitalization points must include a drawn-to-scale and scaled for distance map identifying the project and neighborhood revitalization efforts already undertaken as well as those planned. Applications that have received HOPE awards from the U.S. Department of Housing and Urban Development, or located in federally designated Renewal Communities, Empowerment Zones, or Enterprise Communities, or are planned military base re-use projects, or are for projects located on tribal lands, or are located in a State Enterprise Zone will automatically be granted the full maximum points in this category without meeting any other conditions for Neighborhood Revitalization points. Base re-use, as used in this subsection, refers to projects that are located on a military base. Generally, such projects will involve, at least in part, the rehabilitation of already existing buildings on such a base. A project requesting neighborhood revitalization points will not be eligible to receive points in the balanced communities section below.

Points for neighborhood revitalization will be awarded as follows, to a maximum of 9 points:

Location in a locally designated revitalization area as evidenced by submission of a plan adopted by the jurisdiction, including evidence that the plan for neighborhood revitalization is still in effect, and a drawn-to-scale and scaled for distance map identifying the project and neighborhood revitalization efforts already undertaken as well as those planned. The plan should include findings of need or identification of problems requiring revitalization efforts. 2 points

3rd party letters from governmental entities or non-profit organizations, documenting and substantiating funds committed or expended within the past five years in the neighborhood, as they specifically relate to the revitalization of the neighborhood where the project will be located. Up to 2 points

A narrative explaining precisely the nature and extent of the neighborhood's revitalization efforts, how the applicant's project will fit into that framework, and how the proposed project is critical to the neighborhood's revitalization. 2 points

A letter from an official in the jurisdiction that delineates the various neighborhood revitalization efforts in the immediate vicinity of the proposed development, both already undertaken and planned, and the funds that have been committed and expended for projects within that immediate neighborhood. Up to 3 points

(7) Balanced communities. These points will not be available to projects applying under the Rural set-aside.

If a development does not request neighborhood revitalization points, if the local government is providing funds equal to at least 5% of total project costs for the project, and if it meets the other requirements of this subsection, the applicant may request points for balanced communities. Points will be awarded, to a maximum of 9, as follows:

Submission of evidence from the local government that it has formally adopted initiatives to encourage the creation of affordable rental housing in new growth and/or high income areas and that the project is consistent with those locally adopted initiatives. Such initiatives may include inclusionary zoning ordinances and fair share requirements, as examples, but must include more than adoption of a housing element. 3 points

Evidence that the project will actually be built adjacent to housing owned and occupied by upper income families, to be shown by either the specific plan demonstrating the proximity of land uses and comparable sales data verifying that average sales prices for homes within a 1/2 mile radius of the site are above 100% of area sales prices, or census data demonstrating that the average income of that census tract is at or above 100% of area median. 2 points

The project will reserve at least 10% of its units for tenants with incomes not exceeding 30% of area median income. 2 points

The project will reserve at least 20% of its units for tenants with incomes not exceeding 30% of area median income. 3 points

The project will reserve at least 30% of its units for tenants with incomes not exceeding 30% of area median 4 points

(8) Sustainable building methods. Maximum 8 points

A new construction or adaptive reuse project that exceeds Title 24 energy standards by at least 10%. For a rehabilitation project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission. (4 points)

For rehabilitation projects not subject to Title 24 requirements, use of fluorescent light fixtures for at least 75% of light fixtures or comparable energy lighting for the project's total lighting (including community rooms and any common space) throughout the compliance period. 2 points

Use of Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems. 2 points

Use of water-saving fixtures or flow restrictors in the kitchen (2gpm or less) and bathrooms (1.5 gpm or less). 1 point

Use of at least one High Efficiency Toilet (1.3 gpf) or dual-flush toilet per unit. 2 points

Use of material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six sides by laminates and/or a low-VOC primer or sealant (150 g/l or less). 1 point

Use of no-VOC interior paint (5 g/l or less). 1 point

Use of CRI Green-label, low-VOC carpeting and pad and low-VOC adhesives 25 g/l or less. 1 point

Use of bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer. 2 points

Use of formaldehyde-free insulation. 1 point

Use of at least one of the following recycled materials at the designated levels: a) cast-in-place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%). 1 point

Design the project to retain, infiltrate and/or treat on-site the first one-half inch of rainfall in a 24-hour period. 1 point

Include in the project specifications a Construction Indoor Air Quality Management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas. 2 points

Project design incorporates the principles of Universal Design in at least half of the project's units by including: accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti-scald valves and lever faucet/shower handles, and reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances. 1 point

The proposed project will contain nonsmoking buildings or sections of buildings. Nonsmoking sections must consist of at least half the units within the building, and those units must be contiguous. 1 point

To receive these points, the applicant and the project architect or mechanical engineer must certify in the application, which of the items will be included in the project's design and specifications, and further must certify at the project's placed-in-service date that the items have been included and/or that the energy efficiency standard has been met or exceeded. Projects receiving points under this category that fail to meet the requirement will be subject to negative points under Section 10325(c)(3) above.

(9) Lowest Income in accordance with the table below

Maximum 52 points

(a) The "Percent of Area Median Income" category may be used only once. For instance, 50% of Income Targeted Units to Total Tax Credit Units at 50% of Area Median Income cannot be used twice for 100% at 50% and receive 50 points, nor can 50% of Income Targeted Units to Total Tax Credit Units at 50% of Area Median Income for 25 points and 40% of Income Targeted Units to Total Units at 50% of Area Median In-

come be used for an additional 20 points. However, the "Percent of Income Targeted Units" may be used multiple times. For example, 50% of Targeted Units at 50% of Area Median Income for 25 points may be combined with another 50% of Targeted Units at 45% of Area Median Income to achieve the maximum points. All projects must score at least 45 points in this category to be eligible for 9% Tax Credits.

Only projects competing in the Rural set aside may use the 55% of Area median income column

		Percent of Area Median Income							
		50	55	50	45	40	35	30	
Percent of Income Targeted Units To Total Tax Credit Units (exclusive of mgr.'s units)	50	22.5	25	27.5	30	32.5	35	points	
	45	20	22.5	25	27.5	30	32.5	points	
	40	17.5	20	22.5	25	27.5	30	points	
	35	15	17.5	20	22.5	25	27.5	points	
	30	12.5	15	17.5	20	22.5	25	points	
	25	10	12.5	15	17.5	20	22.5	points	
	20	7.5	10	12.5	15	17.5	20	points	
		15	5	7.5	10	12.5	15	points	
		10	2.5	5	7.5	10	12.5	15	points

(b) A project that agrees to have at least ten percent (10%) of its units available for tenants with incomes no greater than thirty percent (30%) of area median, and to restrict the rents on those units accordingly, will receive two points in addition to other points received under this subsection. The 30% units must be spread across bedroom size, and measurement will begin using 10% of the largest bedroom size; however, the requirement will not exceed a minimum of 10% of the total number of units in the development. (These points may be obtained by using the 30% section of the matrix.)

All projects, except those applying under section 10326 of these regulations, will be subject to the minimum low income percentages chosen for a period of 55 years, unless they receive Federal Tax Credits only and are intended for eventual tenant homeownership, in which case they must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.

(10) Readiness to Proceed. 20 points will be available to projects that meet ALL of the following, and are able to begin construction within 150 days of the Credit Reservation, as evidenced by submission, within that time, of recorded deeds of trust for all construction financing, except for AHP and MHP funds, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor. If no construction lender is involved, evidence must be submitted within 150 days after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. Failure to meet this timeline will result in rescission of the Tax Credit Reservation. The following must be delivered:

(A) enforceable commitment for all construction financing, as evidenced by executed commitment(s) and payment of commitment fee(s);

(B) evidence, as verified by the appropriate officials, of site plan approval and that all local land use environmental review clearances (CEQA and NEPA) necessary to begin construction are either finally approved or unnecessary;

(C) evidence of all necessary public approvals except building permits; and

(D) evidence of design review approval.

In the event that one or more of the above criteria have not been met, 5 points may be awarded for each one that has been met, up to a maximum of 15 points. The 150-day requirements shall not apply to projects that do not obtain the maximum points in this category, for any items for which points are not awarded.

(11) State credit substitution. For applicants that agree to exchange Federal Tax Credits for State Tax Credits in an amount that will yield equal equity as if only Federal Tax Credits were awarded. 2 points

(12) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed: first, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, second, to fund an application for a project located in a qualified census tract or a federally designated Renewal Community, Empowerment Zone, or Enterprise Community that has demonstrated that it will contribute to a concerted neighborhood revitalization plan, as evidenced by a score of at least eight (8) points, or a project not located in such an area that has received nine (9) points under section 10325(c)(6) or (7) of these regulations, or, in the case of a project in the Rural set-aside, one which is located in a qualified census tract, federally designated Renewal Community, Empowerment Zone, Enterprise Community, or Champion Community shall be selected over an application not meeting this criterion; third, the application with the lowest ratio of requested unadjusted eligible basis to total residential project costs, excluding developer fee, total land cost, general partner/sponsor equity/loans or loans from the equity provider unless the loan is the permanent loan for the development. This ratio must not have increased when the project is placed-in-service or negative points will be awarded, and the Tax Credit award may be reduced.

(d) Application selection for evaluation. Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside (including the homeless assistance apportionment), followed by the Rural set-aside (funding the RHS program apportionment first), the Small Development set-aside, the At Risk set-aside, and the Special Needs/SRO set-aside, the highest scoring applications will have Tax Credits reserved. No more than one project in a market area as determined by the Committee will be funded in the Rural set-aside during any calendar year. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second fund-

ing round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Tax Credits reserved in the general non-profit set-aside (but not in the non-profit homeless assistance portion of that set-aside), in the small development set-aside, and in the at-risk set-aside shall count within the geographic areas in which the projects funded therein are located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

(A) For an application to receive a reservation within a statutory set-aside, there shall be at least one dollar of Credit not yet reserved in the set-aside.

(B) If there is a zero or negative amount of Tax Credits in either the Federal or State Tax Credit categories requested by the applicant, the application shall be by-passed in favor of the next highest-ranking application.

(C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

(2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round, filling each geographic area's apportionment and assuring that each geographic area receives funding for at least one project in each funding round to the extent that by funding a project in a geographic area, that area will not have exceeded 125% of the amount available in that funding round for the geographic area. Projects will be funded in order of their rank so long as at least 50% of the Tax Credits to be awarded to any single project are available under the applicable Geographical Apportionment, and the 125% limit for the Apportionment as a whole is not exceeded. Credits allocated in excess of the Geographic Apportionments by the application of the 125% and 50% rules described above will be drawn from the second round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the next highest ranking project does not meet the 50% rule then the Committee will skip over the next highest-ranking project to fund a project that does meet this 50% requirement so long as the score of the funded project(s) is no more than 5 points below that of the first project skipped, so that the full Apportionment can be used. Any unused credit from the geographic areas in the second funding round will be added back into the Supplemental Set-Aside. Tax Credits reserved in all geographic areas shall be counted within the housing type goals.

The Committee may determine that, under the unique circumstances of the funding round and in consideration of the relative scores and ranking of the proposed projects, all applicants' scores are too low to warrant a reservation of Tax Credits pursuant to section 10325(c) of these regulations.

(A) To the extent that there is a positive balance remaining in a geographic area after a funding round, such amount will be added to the amount available in that geographic area in the subsequent funding round. Similarly, to the extent that there is a deficit in a geographic area after a funding round, such amount will be subtracted from the funds available for reservation in the next funding round.

(e) Application Evaluation. To receive a reservation of Tax Credits, applications selected pursuant to subsection (d) of this Section, shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and

these regulations to determine if; eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold and additional threshold requirements; and financially feasible. In scoring and evaluating project applications, the Executive Director shall have the discretion to interpret the intent of these regulations and to score and evaluate applications accordingly. Applicants understand that there is no "right" to receive Tax Credits under these regulations. The Committee shall make available to the general public a written explanation for any allocation of Tax Credits that is not made in accordance with the established priorities and selection criteria of these Regulations.

(f) Basic Thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements, among other tests. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction.

(1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located. Evidence shall be conclusive, and include the most recent documentation available (prepared within one year of the application date and updated, if necessary). Evidence of housing need and demand shall include:

(A) evidence of public housing waiting lists, by bedroom size and tenant type, if available, from the local housing authority; and

(B) a market study as described in Section 10322(h)(9) of these regulations, which provides evidence that:

(i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below rents for the same unit types in comparable market rate rental properties;

(ii) The proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the value ratios for comparable market rate units;

(iii) In rural areas without sufficient three- and four- bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the \$/s.f. ratio will not exceed that of the single family homes; and

(iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy — 90% occupancy for SRO and Special Needs projects and 95% for all other projects — within six months of being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

Market studies will be assessed thoroughly. Meeting the requirements of subsection (B) above is essential, but because other elements of the market study will also be considered, meeting those requirements in subsection (B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project.

(2) Demonstrated site control. Applicants shall provide evidence that the subject property is within the control of the applicant.

(A) Site control may be evidenced by:

(i) a current title report (within 90 days of application) showing the applicant holds fee title;

(ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program between the applicant and the owner of the subject property;

(iii) an executed disposition and development agreement between the applicant and a public agency; or,

(iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.

(B) A current title report (within 90 days of application) shall be submitted with all applications for purposes of this threshold requirement.

(C) The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has demon-

strated its intention to acquire the site, or portion of the site, through eminent domain proceedings.

(3) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for at least fifty percent (50%) of the acquisition and construction financing, or at least fifty percent (50%) of the permanent financing, of the proposed project's estimated total acquisition and construction or total permanent financing requirements. An "enforceable financing commitment" must:

(A) be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/assumption of existing debt by the mortgagee;

(B) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;

(C) have a term of at least fifteen (15) years if it is permanent financing;

(D) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,

(E) be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and

(F) be accepted in writing by the proposed mortgagor or grantee, if private financing.

Substitution of such funds may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. For projects using FHA-insured debt, the submission of a multifamily accelerated processing invitation letter from the U.S. Department of Housing and Urban Development, together with the submission of a multifamily accelerated processing firm commitment application will suffice to satisfy the requirements of this enforceable financing commitment requirement:

(4) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

(5) Financial feasibility. Applicants shall provide the financing plan for the proposed project, and shall demonstrate the proposed project is financially feasible and viable as a qualified low income housing project throughout the extended use period. A fifteen-year pro forma of all revenue and expense projections, starting as of the planned placed in service date for new construction projects, and as of the rehabilitation completion date for acquisition/rehabilitation projects, is required. The financial feasibility analysis shall use all underwriting criteria specified in Section 10327 of these regulations.

(6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) for all participants, a description of other Credit and all other affordable, multifamily rental project involvement in California or other states, on forms provided by the Committee together with a release form permitting inquiry into the status of such developments;

(C) for each of the following participants, a copy of a contract to provide services related to the proposed project:

(i) Attorney(s) and or Tax Professional(s)

(ii) Architect

(iii) Property Management Agent

(iv) Consultant

(v) Market Analyst

(D) for the applicant and all other members of the Development Team, a description of any circumstances that would require negative points to be assessed by the Committee and any defaults or foreclosures on residential rental properties, or a signed statement affirming that no such defaults or foreclosures occurred.

(7) Minimum construction standards. Applicants shall provide a statement of their intent to utilize landscaping and construction materials which are compatible with the neighborhood in which the proposed project is to be located, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the statement of intent shall note that the following minimum specifications will be incorporated into the project design for all new construction projects:

(A) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs.

(B) Roofs. Roofing shall carry a three-year subcontractor guarantee and a 20-year manufacturer's warranty.

(C) Exterior doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad or hardwood faces, with a standard one-year guarantee and all six sides factory primed.

(D) Appliances. Energy Star rated appliances, including but not limited to, refrigerators, dishwashers, and clothes washers shall be installed when such appliances are provided within Low-Income Units and/or in on-site community facilities unless waived by the Executive Director.

(E) Window coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.

(F) Water heater. For units with individual water heaters, minimum capacities are to be 30 gallons for one- and two-bedroom units and 40 gallons for three-bedroom units or larger. All individual water heaters shall be equipped with pressure and temperature relief valves unless waived by the Executive Director.

(G) Floor coverings. For light and medium traffic areas vinyl or linoleum shall be at least 3/32" thick; for heavy traffic areas it shall be a minimum 1/8" thick. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Carpet complying with U.S. Department of Housing and Urban Development/Federal Housing Administration UM 44C, or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director.

(H) Use of Low Volatile Organic Compound (VOC) paints and stains (Non-flat: 150 g/l or less, Flat: 50 g/l or less) for all interior surfaces where paints and stains are applied.

A project proposing rehabilitation of existing structures shall be exempt from the provisions of subsections (D) and (F) above. If an applicant does not propose to meet the other requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive.

(8) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies shown in the application are "committed" at the time of application, except as permitted in subsection (E) and (F) below.

(A) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, conditions

of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the applicant's acceptance in the case of privately committed loans.

(B) Commitments shall be final and not preliminary, and only subject to conditions within the control of the applicant, with one exception, the attainment of other financing sources including an award of Tax Credits.

(C) Fund commitments shall be from funds within the control of the entity providing the commitment at the time of application.

(D) Substantiating evidence of the value of local fee waivers, exemptions or land write-downs is required.

(E) Substitution or an increase of such funds may be permitted only when the source of funding is similar to the original funding, for example, private loan to substitute for private loan, public funds for public funds. Funds may be increased only in an amount necessary to achieve project feasibility. This provision shall include projects that have already received a reservation or allocation of Tax Credits in prior years.

(F) Funds anticipated but not yet awarded under the following programs shall be exempt from the provisions of this subsection: the Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; RHS Section 514, 515 or 538 programs; California Housing Finance Agency's Proposition 1A school facility fee reimbursement program; the Department of Housing and Urban Development's Supportive Housing Program (SHP); the California Department of Mental Health's Supportive Housing Initiative Act Program; projects that have received a Reservation of HOME funds from the applicable Participating Jurisdiction, or to projects receiving Housing Tax Credits in 1999 and thereafter and funding under the Department of Housing and Community Development's Multifamily Housing Program.

(9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.

(A) Unit number limits are as follows:

i. Rural set-aside applications — Eighty (80) units maximum

ii. Other than rural set-aside applications — One hundred fifty (150) units maximum, except for rehabilitation proposals, HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan where the size limitation is waived by the Executive Director, after making a determination that the project cannot feasibly be phased or completed as a tax-exempt project.

(B) Units, for purposes of this subsection, shall:

i. include low-income units;

ii. not include market rate units or manager's units.

(C) The total "units" in one or more separate applications, filed by Related Parties, proposing projects within one-fourth (1/4) mile of one another, filed at any time within a twelve (12) month period, shall, for purposes of this subsection be subject to the above project size limitations, except when specifically waived by the Executive Director in unusual circumstances such as HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan. HOPE VI and other large projects will generally be directed towards the tax-exempt bond program.

(D) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million (\$2,000,000) Dollars, except for projects receiving a waiver of unit size under subsection (C) above, in which case the maximum annual Federal Tax Credits reserved to any one project in any one funding round shall not exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.

(10) Projects applying for competitive Tax Credits and involving rehabilitation of existing buildings shall be required to complete a minimum of \$20,000 in hard construction costs per unit (except for those projects defined as "at risk" pursuant to these regulations, which must complete a minimum of \$10,000 in hard construction costs per unit.)

(g) **Additional Threshold Requirements.** To qualify for Tax Credits as a Housing Type as described in Section 10315(i), to receive points as a

housing type, or to be considered a "complete" application, the application shall meet the following additional threshold requirements:

(1) Large Family projects. To be considered large family housing, the application shall meet the following additional threshold requirements.

(A) At least thirty percent (30%) of the Tax Credit units in the project shall be three-bedroom or larger units, with the remaining units configured based on the demand established in the basic threshold requirements except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply.

(B) One-bedroom units must include at least 500 square feet and two-bedroom units must include at least 750 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director. Three-bedroom units shall include at least 1,000 square feet of living space and four-bedroom units shall include at least 1,200 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval (bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom);

(C) Four-bedroom and larger units shall have a minimum of two full bathrooms;

(D) The project shall provide outdoor play/recreational facilities suitable and available to all tenants, for children of all ages, except for small developments as defined in Section 10315(e). The Executive Director, in her/his sole discretion may waive this requirement upon demonstration of nearby, readily accessible, recreational facilities.

(E) The project shall provide an appropriately sized common area(s). For purposes of this part, common areas shall include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1000 square feet; projects from 61 to 100 total units, at least 1400 square feet; projects over 100 total units, at least 1800 square feet. Small developments, defined in Section 10315(e), are exempt from this requirement;

(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 10 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each unit, subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property.

(H) Dishwashers shall be provided in all units unless a waiver is granted by the Executive Director because of planning or financial impracticality.

(I) Projects are subject to a minimum low-income use period of 55 years.

(2) Senior projects. To be considered senior housing, the application shall meet the following additional threshold requirements:

(A) All units shall be restricted to households eligible under the provisions of California Civil Code 51.3 (except for projects utilizing federal funds whose programs have differing definitions for senior projects), and further be subject to state and federal fair housing laws with respect to senior housing;

(B) The project shall be on a suitable site. Access to basic services shall be available by other than resident-owned transportation;

(C) Projects over two stories shall have an elevator;

(D) No more than twenty percent (20%) of the low-income units in the project shall be larger than one-bedroom units, unless waived by the

Executive Director, when supported by a full market study. One larger unit may be included for use as a manager's unit without a waiver.

(E) One-bedroom units must include at least 500 square feet and two-bedroom units must include at least 750 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director.

(F) For projects receiving Tax Credits after 2000, emergency call systems shall only be required in units intended for occupancy by frail elderly populations requiring assistance with activities of daily living, and/or applying as special needs units. When required, they shall provide 24-hour monitoring, unless an alternative monitoring system is approved by the Executive Director;

(G) Common area(s) shall be provided on site, or within approximately one-half mile of the subject property. For purposes of this part, common areas shall be allowed to include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1,000 square feet; projects from 61 to 100 total units, at least 1,400 square feet; projects over 100 total units, at least 1,800 square feet. Small developments, defined in Section 10315(e) are exempt from this requirement;

(H) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(I) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the units subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property.

(J) Projects are subject to a minimum low-income use period of 55 years.

(3) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:

(A) Average income is no more than forty percent (40%) of the area median income;

(B) SRO units are efficiency units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The maximum size for an SRO unit shall be 500 square feet. At least 90% of the units in the project must meet these requirements;

(C) At least one bath shall be provided for every eight units;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving General Assistance are willing to pay rent at the level proposed;

(E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population;

(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost;

(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(H) Projects are subject to a minimum low-income use period of 55 years;

(I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider, must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider in providing for the population to be served must accompany the Tax Credit application; and,

(L) New construction projects for seniors shall not qualify as Single Room Occupancy housing.

(4) Special Needs projects. To be considered Special Needs housing, at least 50% of the Tax Credit units in the project shall serve populations that meet one of the following: are developmentally disabled, are survivors of physical abuse, are homeless, have chronic illness, including HIV and mental illness, are displaced teenage parents (or expectant teenage parents) or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. In the case of a development that is less than 75% special needs, the non-special needs units must meet another housing type (for example, large family), although the project will be considered as a special needs project for purposes of Section 10325. The application shall meet the following additional threshold requirements:

(A) Average income for the special needs units is no more than forty percent (40%) of the area median income;

(B) Third party verification from a federal, state or local agency of the availability of services appropriate to the targeted population;

(C) The units/building configurations (including community space) shall meet the specific needs of the population;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving such assistance are willing to pay rent at the level proposed;

(E) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(F) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(G) Projects are subject to a minimum low-income use period of 55 years;

(H) A ten percent (10%) vacancy rate shall be used for pro-forma purposes unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;

(I) Where services are required as a condition of occupancy, special attention shall be paid to the assessment of service costs as related to maximum allowable Credit rents. A tax professional's opinion as to compliance with IRC Section 42 may be required by the Executive Director;

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider, must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider in providing for special needs populations must accompany the Tax Credit application; and,

(L) A preliminary service plan that specifically identifies the services to be provided to the special needs population. The Executive Director shall, in his/her sole discretion, determine whether the plan is adequate to qualify the project as a special needs project.

(5) At-risk projects. To be considered At-risk housing, the application shall meet the requirements of R & T Code subsection 17058(c)(4), except as further defined in subsection (B)(i) below, as well as the following

additional threshold requirements, and other requirements as outlined in this subsection:

(A) Projects are subject to a minimum low-income use period of 55 years; and,

(B) Project application eligibility criteria include:

(i) before applying for Tax Credits, the project must meet the At-risk eligibility requirements under the terms of applicable federal and state law as verified by a third party legal opinion, except that a project that has been acquired by a qualified nonprofit organization within the past two years of the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section, shall be eligible to be considered an "at-risk" project under these regulations. A project application will not qualify in this category unless it is determined by the Committee that the project is at-risk of converting due to market or other conditions;

(ii) the project must currently possess or have had within the past two years from the date of application, either federal mortgage insurance, a federal loan guarantee, federal project-based rental assistance, or, have its mortgage held by a federal agency, or be owned by a federal agency or be currently subject to, or have been subject to, within two years preceding the application deadline, Federal Housing Tax Credit restrictions whose compliance period is expiring and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the Tax Credit restrictions;

(iii) as of the date of application filing, the applicant shall have sought available federal incentives to continue the project as low-income housing, including, direct loans, loan forgiveness, grants, rental subsidies, renewal of existing rental subsidy contracts, etc.;

(iv) subsidy contract expiration, mortgage prepayment eligibility, or the expiration of Housing Tax Credit restrictions shall occur no later than five calendar years after the year in which the application is filed, except in cases where a qualified nonprofit organization acquired the property within the terms of (i) above and would otherwise meet this condition but for: 1) long-term use restrictions imposed by public agencies as a condition of their acquisition financing; or 2) HAP contract renewals secured by the qualified nonprofit organization for the maximum term available subsequent to acquisition;

(v) the applicant agrees to renew all project based rental subsidies (such as Section 8 HAP or Section 521 rental assistance contracts) for the maximum term available and shall seek additional renewals throughout the project's useful life, if applicable;

(vi) at least seventy percent (70%) of project tenants shall, at the time of application, have incomes at or below sixty percent (60%) of area median income;

(vii) the gap between total development costs (excluding developer fee), and all loans and grants to the project (excluding Tax Credit proceeds) must be greater than fifteen percent (15%) of total development costs; and,

(viii) a public agency shall provide direct or indirect long-term financial support of at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost.

(h) **Waiting List.** At the conclusion of the last reservation cycle of any calendar year, and at no other time, the Committee may establish a Waiting List of pending Eligible Project applications already scored, ranked and evaluated in anticipation of utilizing any Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects with the Set-Asides or Geographic Regions for which they were intended. The Waiting List shall expire on the date specified in the Committee's resolution establishing the Waiting List. If no date is specified, the Waiting List shall expire at midnight on December 31 of the year the list is established. Selections from the Waiting List will be made as follows:

(1) If Credits are returned from projects originally funded under current year Set-Asides or Geographic Apportionments, applications quali-

fying under the same Set-Aside or Geographic Region will be selected in the order of their ranking.

(2) Next, Eligible Waiting List projects in Set Asides or Geographic Apportionments that are not yet fully subscribed will be selected from the Waiting List for reservations. These will be selected first from the Set Asides in order of their funding sequence, and then from the Geographic Apportionments in the order of the highest to the lowest percentage by which each Apportionment is undersubscribed. (This will be calculated by dividing the unreserved Tax Credits in the apportionment by the total Apportionment.)

(3) Finally, after all Set-Asides and Geographic Apportionments for the current year have been achieved, or if no further projects are available for such reservations, the unallocated Tax Credits will be transferred to the Supplemental Set Aside and used for projects selected from the Waiting List, in the order of their score and tie breaker performance ranking, without regard to Set-Aside or Geographic Region. All Waiting List project reservations will be counted toward the projects' Geographic Apportionments.

(4) If there are not sufficient Tax Credits to fully fund the next ranked application on the Waiting List, a reservation of all remaining Tax Credits may be made to that application, and any first recaptured or otherwise available Tax Credits in the following year may be reserved for that application up to the maximum amount previously approved by the Committee.

(5) If the rules described above result in selection of a Waiting List application requesting both Federal and State Tax Credits, and State Tax Credits are not at that time available, the Committee shall allow said applicants to substitute other funds from any source in an amount equivalent to the amount of funds anticipated from the sale of requested State Tax Credits. In no case shall the tax Credit factor, loan and grant interest rates and terms, or the total project development cost in any way be altered from that in the application for purposes of achieving project feasibility through the option to substitute State Tax Credits.

At the earlier of the date upon which a request is made for a carryover allocation or tax forms, the applicant shall evidence the availability of said funds according to application requirements of these regulations pertaining to the type of fund source.

The option to substitute State Tax Credits with other funds shall be limited to applications receiving an offer of Federal Tax Credits that are returned to the Committee on or before November 1 of the year of the applicable waiting list. For purposes of this subsection, Federal Tax Credits returned prior to November 1, and offered to, but not accepted by, an applicant may be offered to the next eligible waiting list project after November 1. Any such offer after November 1 shall be limited to only the next eligible waiting list project and the Federal Tax Credits shall not be available thereafter to other waiting list projects under the option to substitute State Tax Credits with other funds. After being offered a reservation of Federal Tax Credits, the applicant shall be allowed ten (10) days to provide the Committee with evidence of the availability and willingness of a financing source, that shall not be substituted at a later date with another source, to cover the financing gap remaining due to the absence of State Tax Credits (e.g. a letter of interest). At such time as is required for filing of a carryover allocation, the availability of funds to cover said financing gap shall be evidenced in accordance with subsection 10325(f)(8). Once a reservation of Federal Tax Credits has been accepted for an application pursuant to this subsection, the application shall not be eligible for State Tax Credits should additional State Tax Credits become available for waiting list applications.

(i) **Carry forward of Tax Credits.** Pursuant to Federal and state statutes, the Committee may carry forward any unused Tax Credits or Tax Credits returned to the Committee for allocation in the next calendar year.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90

- or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as an emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
 3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
 4. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
 5. Certificate of Compliance as to 3-28-91 order including amendment of subsection (i) transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
 6. Amendment of subsection (i) filed 9-25-91 as an emergency pursuant to Health and Safety Code section 50199.17(d); operative 8-27-91 pursuant to Health and Safety Code section 50199.17(c) (Register 92, No. 6).
 7. Amendment of subsection (i) refilled 1-6-92 as an emergency; operative 1-6-92 (Register 92, No. 15). A Certificate of Compliance must be transmitted to OAL 5-5-92 or emergency language will be repealed by operation of law on the following day.
 8. Amendment filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
 9. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
 10. Repealer and new section refilled, with amendment of subsection (h), 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
 11. Repealer and new section refilled with amendment of subsection (h) 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
 12. Repealer and new section refilled as an emergency, including amendment of subsection (h); operative 4-3-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
 13. Repealer and new section refilled 10-6-93, with amendment of subsection (h), as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
 14. Editorial correction of HISTORY 12 (Register 93, No. 41).
 15. Repealer and new section refilled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
 16. Repealer and new section refilled with amendments to subsections (b) and (h) 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
 17. Repealer and new section refilled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
 18. Repealer and new section refilled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
 19. Repealer and new section refilled 1-17-95 as an emergency, including amendment of subsection (h) and NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
 20. Repealer and new section refilled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
 21. New section refilled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
 22. New section, including amendment of section and NOTE, refilled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
 23. New section refilled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
 24. New section refilled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
 25. Repealer and new section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
 26. Editorial correction of subsection (g)(9)(B)(ii) (Register 98, No. 30).
 27. Amendment of subsections (b), (d), (e)(1) and (f), repealer and new subsection (g)(4), and amendment of subsections (g)(7)(G), (g)(8), (g)(9)(C), (h)(4)(I), (h)(5), (h)(5)(C)(i) and (i)(1) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
 28. Amendment filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
 29. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
 30. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
 31. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
 32. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
 33. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
 34. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
 35. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
 36. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
 37. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
 38. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
 39. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
 40. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
 41. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10326. Application Selection Criteria—Tax-Exempt Bond Applications.

(a) General. All applications (including reapplications) requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4) for buildings and land, the aggregate basis (including land) of which is financed at least fifty percent (50%) by tax-exempt bonds, shall be eligible to apply under this Section for a reservation and allocation of Federal Tax Credits. However, those projects requesting State Tax Credits will be competitively scored. The competitive scoring system used shall be that delineated in Section 10325(c)(2) through (5) and (8) through (12), except that the only tie breaker shall be the lowest requested eligible basis per bedroom. The highest scoring applications under this scoring system will be recommended for receipt of State Tax Credit, without regard to any set-asides or geographic areas, provided that they meet the threshold requirements of this section.

(b) Applicable criteria. Selection criteria for applications reviewed under this Section shall include those required by IRC Section 42(m), this Section, and Sections 10300, 10302, 10305, 10320, 10322, 10327, 10328(e), 10330, 10335, and 10337 of these regulations. Other sections of these regulations shall not apply.

(c) Application review period. The Committee may require up to forty-five (45) days to review an application, and an additional fifteen (15) days to consider the application for a reservation of Tax Credits. Applicants must deliver applications no less than sixty (60) days prior to the CTCAC Committee meeting in which they wish to obtain a decision.

(d) Issuer determination of Credit. The issuer of the bonds may determine the Federal Tax Credit amount, with said determination verified by the Committee and submitted with the application. The issuer may request the Committee determine the Credit amount by including such request in the application.

(e) Additional application requirements. Applications submitted pursuant to this Section shall provide the following additional information:

(1) the name, phone number and contact person of the bond issuer; and,

(2) verification provided by the bond issuer of the availability of the bond financing, the actual or estimated bond issuance date, and the actual or estimated percentage of aggregate basis (including land) financed or to be financed by the bonds, and a certification provided by a tax professional as to the expected or actual aggregate basis (including land) financed by the proceeds of tax exempt bonds;

(3) the name, phone number and contact person of any entity providing credit enhancement and the type of enhancement provided.

(f) Application evaluation. To receive a reservation of Tax Credits, applications submitted under this Section shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and these regulations to determine if: eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold requirements; and financially feasible.

(g) Basic thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Further, in order to be eligible to be considered for Tax Credits under these regulations, the general partner(s) and management companies must not have any significant outstanding non-compliance matters relating to the tenant files or physical conditions at any Tax Credit properties in California, and any application submitted by an applicant with significant outstanding compliance matters will not be considered until the Committee has received evidence satisfactory to it that those matters have been resolved.

(1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located. Evidence shall be conclusive, and include the most recent

documentation available (prepared within one year of the application date). Evidence of housing need and demand shall include;

(A) evidence of public housing waiting lists by bedroom size and tenant type, if available, from the local housing authority; and,

(B) a market study as described in Section 10322(h)(9) of these regulations, which provides evidence that:

(i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below rents for the same unit types in comparable market rate rental properties;

(ii) The proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the value ratios for comparable market rate units;

(iii) In rural areas without sufficient three- and four-bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the \$/s.f. ratio will not exceed that of the single family homes; and

(iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy — 90% occupancy for SRO and Special Needs projects and 95% for all other projects — within six months of being placed in service for projects of 150 units or less, and within twelve months for projects of more than 150 units and senior projects

Market studies will be assessed thoroughly. Meeting the requirements of subsection (B) above is essential, but because other elements of the market study will also be considered, meeting those requirements in subsection (B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project.

(2) Demonstrated site control. Applicants shall provide evidence that the subject property is, and will remain within the control of the applicant from the time of application submission.

(A) Site control may be evidenced by:

(i) a current title report (within 90 days of application) showing the applicant holds fee title;

(ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program between the applicant and the owner of the subject property;

(iii) an executed disposition and development agreement between the applicant and a public agency; or,

(iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the applicant and the owner of the subject property. Evidence that all extensions necessary to keep agreement current through the application filing deadline have been executed must be included in the application.

(B) A current title report (within 90 days of application) shall be submitted with all applications for purposes of this threshold requirement.

(3) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project, as proposed, is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

(4) Financial feasibility. Applicants shall provide the financing plan for the proposed project, and shall demonstrate the project's financial feasibility and viability as a qualified low income housing project throughout the extended use period. A 15-year pro forma of all revenue and expense projections is required, along with a comparable operating budget from a similar existing occupied project, with detailed informa-

tion as requested on Committee forms. The financial feasibility analysis shall use all underwriting criteria specified in Section 10327 below.

(5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) for all participants, a description of other Credit project involvement in California or other states, on forms provided by the Committee or by providing a firm resume;

(C) for each of the following participants, a copy of a contract to provide services related to the proposed project:

(i) Attorney(s) and or Tax Professional(s)

(ii) Architect

(iii) Property Management Agent

(iv) Consultant

(v) Market Analyst

(D) for the applicant and all general partners of the project, a description of any defaults or foreclosures on residential rental properties, or a signed statement affirming that no such defaults or foreclosures occurred.

(6) Minimum construction standards. Applicants shall adhere to minimum construction standards as set forth in Section 10325(f)(7).

(7) Minimum Rehabilitation Project Costs. Projects involving rehabilitation of existing buildings shall be required to complete a minimum of \$10,000 in hard construction costs per unit.

(h) Additional condition on applications. The following additional condition shall apply to applications for Tax Credits pursuant to this Section: If not currently possessing a bond allocation for the proposed project, at the time the application is considered by the Committee, the applicant shall have either applied for a bond allocation at the California Debt Limit Allocation Committee's (CDLAC) next scheduled meeting, or shall have received an initial loan commitment from the California Housing Finance Agency (CalHFA).

(i) Tax-exempt bond reservations. Reservations of Tax Credits shall be subject to conditions as described in this Section and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the reservation fee described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the reservation.

(j) Additional conditions on reservations. The following additional conditions shall apply to reservations of Tax Credits pursuant to this Section:

(1) CDLAC allocation. The applicant shall have received a bond allocation from CDLAC for the proposed project;

(2) Bonds issued. Bonds shall be issued within the time limit specified by CDLAC, if applicable; and,

(3) Projects receiving an allocation of private activity bonds after 1999 shall maintain at least 10% of the total units at rents affordable to tenants earning 50% or less of the Area Median Income, and shall maintain a minimum 30 year affordability period.

(4) Projects proposing the rehabilitation of existing structures shall provide CTCAC with an updated development timetable by December 31 of the year following the year the project received its reservation of Tax Credits.

(i) The report shall include the actual placed-in-service date or the anticipated placed-in-service date for the last building in the project and the date the project achieved full occupancy. The report shall detail the causes for any change from the original date.

(ii) Projects proposing new construction shall provide CTCAC with an updated development timetable by December 31 of the second year following the year the project received its reservation of Tax Credits. The update shall include the actual placed-in-service date for the last building in the project and the date that the project achieved full occupancy; or the date the project is anticipated to achieve full occupancy.

(5) Other conditions, including cancellation, disqualification and other sanctions imposed by the Committee in furtherance of the purposes of the Credit programs.

(k) Placed-in-service. Upon completion of construction of the proposed project, the applicant shall submit documentation required by Section 10322(i)(2).

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Editorial correction of subsection (g)(6)(B) (Register 98, No. 30).
3. Amendment of subsection (f), repealer and new subsection (g)(3), and amendment of subsection (g)(6)(G) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
4. New subsections (g)(1)(D)-(E) and (g)(6)(H) filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
5. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
6. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
7. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
8. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
9. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10).
EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
10. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
15. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
16. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
17. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes

prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10327. Financial Feasibility and Determination of Credit Amounts.

(a) General. Applicants shall demonstrate that the proposed project is financially feasible as a qualified low income housing project. Development and operational costs shall be reasonable and within limits established by the Committee, and may be adjusted by the Committee, at any time prior to issuance of tax forms. Approved sources of funds shall be sufficient to cover approved uses of funds. If it is determined that sources of funds are insufficient, an application shall be deemed not to have met basic threshold requirements and shall be considered incomplete. Following its initial and subsequent feasibility determinations, the Committee may determine a lesser amount of Tax Credits for which the proposed project is eligible, pursuant to the requirements herein, and may rescind a reservation or allocation of Tax Credits in the event that the maximum amount of Tax Credits achievable is insufficient for financial feasibility.

(b) Limitation on determination. A Committee determination of financial feasibility in no way warrants to any applicant, investor, lender or others that the proposed project is, in fact, feasible.

(c) Reasonable cost determination. IRC Section 42(m) requires that the housing Credit dollar amount allocated to a project not exceed the amount the housing Credit agency determines is necessary for the financial feasibility of the project. The following standards shall apply:

(1) Builder overhead, profit and general requirements. An overall cost limitation of fourteen percent (14%) of the cost of construction (site work and structures) shall apply to builder overhead, profit and general requirements, excluding builder's general liability insurance.

(2) Developer fee. The maximum developer fee that may be included in project costs for a 9% competitive credit application is the lesser of 15% of the project's eligible basis or two million (\$2,000,000) dollars. A cost limitation on developer fees that may be included in eligible basis, shall be as follows:

(A) For 9% competitive applications applying under section 10325 of these regulations, and for applications applying under 10326 of these regulations that also apply for State Tax Credit, the following limitations shall apply:

(i) the maximum developer fee that may be included in eligible basis for a new construction or rehabilitation only project is the lesser of 15% of the project's unadjusted eligible basis, or one million four hundred thousand (\$1,400,000) dollars; or

(ii) the maximum developer fee that may be included in eligible basis for acquisition/rehabilitation projects is the lesser of 15% of unadjusted eligible construction related basis plus 5% of the unadjusted eligible acquisition basis, or one million four hundred thousand (\$1,400,000) dollars; or

(iii) the maximum developer fee that may be included in eligible basis for projects receiving a waiver of the project size limitations under section 10325(f)(9)(C) of these regulations is the lesser of 15% of the project's eligible basis or \$1,680,000 for projects having between 201 and 250 units, \$1,750,000 for projects having between 251 and 300 units, and \$1,820,000 for projects having more than 300 units.

(B) For 4% projects applying under Section 10326 of these regulations that do not apply for State Tax Credits, the maximum developer fee that may be included in project costs is the lesser of 15% of the project's eligible basis or two million five hundred thousand dollars (\$2,500,000). A cost limitation on developer fees that may be included in eligible basis, shall be as follows:

(i) the maximum developer fee that may be included in eligible basis for a new construction or rehabilitation only project is the lesser of 15% of the project's unadjusted eligible basis, or two million five hundred thousand (\$2,500,000) dollars; or

(ii) the maximum developer fee that may be included in eligible basis for acquisition/rehabilitation projects is the lesser of 15% of the unad-

justed eligible construction related basis and five (5%) percent of the unadjusted eligible acquisition basis, or two million five hundred thousand (\$2,500,000) dollars. A 15% developer fee on the acquisition portion will be permitted for at-risk developments meeting the requirements of section 10325(g)(5) or for other acquisition/rehabilitation projects whose hard costs per unit in rehabilitation expenditures of at least \$15,000 or where the development will restrict at least 30% of its units for those with incomes no greater than 50% of area median and restrict rents concomitantly.

(C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. Once established at application, the developer fee cannot be increased, but may be decreased, in the event of a modification in basis.

(3) Syndication expenses. A cost limitation on syndication expenses, excluding bridge loan costs, shall be twenty percent (20%) of the gross syndication proceeds, if the sale of Tax Credits is through a public offering or private Securities and Commission Regulation D offering, and ten percent (10%) of the gross syndication proceeds, if the sale is through a private offering. The Executive Director may allow exceptions to the above limitation, in amounts not to exceed twenty-four percent (24%) for public offerings and private Securities and Exchange Commission Regulation D offerings, and fifteen percent (15%) for private offerings, should the following circumstances be present: smaller than average project size; complex financing structure due to multiple sources; complex land lease or ownership structure; higher than average investor yield requirements, due to higher than average investor risk; and, little or no anticipated project cash allowing lower-than-market investor returns. Syndication costs cannot be included in eligible basis.

(4) Net syndication proceeds. The Executive Director shall evaluate the net syndication proceeds to ensure that project sources do not exceed uses and that the sale of Tax Credits generates proceeds equivalent to amounts paid in comparable syndication raises. The Executive Director shall determine the minimum tax credit factor to be used in all applications prior to the beginning of a funding cycle for projects applying under Section 10325 for both Federal and State Tax Credits. The minimum tax credit factor for applications made under Section 10326 shall be adjusted annually based on current market conditions.

(5) Threshold Basis Limits. The Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published in its Application Supplement in effect at the time of application, and in accordance with the definition in Section 10302(nn) of these regulations. This limitation shall not apply for purposes of calculating the final Credit amount upon issuance of tax forms, including projects that have already received Reservation or allocations of Tax Credits.

Exceptions to limits.

(A) Increases in the Threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the unadjusted eligible basis of a development permitted under this subsection shall not exceed twenty-nine (29%) percent.

A twenty percent (20%) increase to the unadjusted eligible basis for a development that is required to pay state or federal prevailing wages;

A seven percent (7%) increase to the unadjusted eligible basis for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking);

A two percent (2%) increase to the unadjusted eligible basis where a day care center is part of the development;

A two percent (2%) increase to the unadjusted eligible basis where 100% of the units are for special needs populations

(B) A further four percent (4%) increase in the Threshold Basis Limits will be permitted for projects applying under Section 10325 or Section 10326 of these regulations that include three of the following energy efficiency/resource conservation/indoor air quality items:

Exceed Title 24 standards by at least 15%.

Use tankless water heaters, a high efficiency condensing boiler (92% AFUE or greater), or a solar thermal domestic hot water pre-heating system.

Use a Minimum Efficiency Report Value (MERV) 8 or higher air-filter for HVAC systems that introduce outside air.

Irrigation system using only reclaimed water and/or captured rainwater.

Recycle at least 75% of construction and demolition waste (measured by either by weight or volume).

Install natural linoleum, natural rubber, or ceramic tile for all kitchens and bathrooms (where no VOC adhesives or backing is also used).

Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ceramic tile, or natural linoleum in all living rooms or 50% of all common areas.

Install CRI Green Label Plus Carpet, or no carpet, in all bedrooms.

Vent kitchen range hoods to the exterior of the building in at least 80% of units.

Use at least four recycled products listed in the Construction, Flooring, or Recreation section of the California Integrated Waste Management Boards Recycle Content Products Database www.ciwm.ca.gov/RCP.

(C) Additionally, for projects applying under Section 10326 of these regulations, an increase in the threshold basis limits of up to 60% for projects located in federally designated difficult to develop areas or qualified census tracts and up to 80% for projects not located in federally designated difficult to develop areas or qualified census tracts, in addition to all other adjustments permitted under these regulations, will be permitted, and where more than 50% of the units will be income and rent restricted to Tax Credit levels, the basis limits can be exceeded by 80% for projects located in federally designated difficult to develop areas or qualified census tracts, and up to 100% for projects not located in federally designated census tracts, in addition to all other adjustments permitted under these regulations. In order to qualify for either of the aforementioned adjustments to the threshold basis limits, the applicant must agree to maintain the affordability period of the project for 55 years.

(D) Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation may be permitted an increase in basis equal to the lesser of the amount of costs associated with the seismic upgrading or environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect certifies in the application to the costs associated with such work.

(E) Further, the Executive Director, in his/her sole discretion, may permit a further increase in basis limits to a maximum of 5%, where distributive energy technologies such as microturbines and/or renewable energy sources such as solar will be implemented. To obtain this increase, an applicant must submit evidence of the cost of the system and the operating cost savings to be created through the use of the technology, throughout the time of the compliance period.

(6) Minimum Debt Service Coverage. An initial debt service coverage ratio equal to at least 1.10 to 1 is required, except for RHS projects or projects financed by the California Housing Finance Agency.

(7) Acquisition costs. Applications including acquisition and rehabilitation costs for existing improvements shall be underwritten using the lesser amount of the purchase price or the "as is" appraised value of the subject property (as defined in Section 10322(i)(4)(A)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an "as if vacant" value as determined by the appraisal methodology described in Section 10322(i)(4) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. The Executive Director may waive this requirement where a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in a designated revital-

ization area when the local governmental entity has determined that the higher cost is justified.

(8) Reserve accounts. All unexpended funds in project reserve accounts shall remain with the project to be used for the benefit of the property and/or its residents, except for amounts designated to be used to pay deferred developer fees, which may be released as stated below. The Committee shall allow operating reserve amounts in excess of industry norms to be considered "reasonable costs," for purposes of this subsection, only for applications requesting a reservation of Tax Credits under the Nonprofit set-aside homeless assistance apportionment, as described in Section 10315(b), SRO, Special Needs, or HOPE VI, or project based Section 8 projects. The original Sources and Uses budget, the pro forma balance sheet and pro forma income/expense statement, and the final cost certification should demonstrate the initial and subsequent funding of the replacement and operating reserves.

(A) The Minimum replacement reserve for projects shall be three hundred dollars (\$300) per unit per year; or

(B) For new construction or senior projects, two hundred fifty dollars (\$250) per unit per year.

(C) An operating reserve will be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. An equal, verified operating reserve requirement of any other debt or equity source may be used as a substitute, and the reserve may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy.

(9) Applicant resources. If the applicant intends to finance part or all of the project from its own resources (other than deferred fees), the applicant shall be required to prove, to the Executive Director's satisfaction, that such resources are available and committed solely for this purpose, including an audited certification from a certified public accountant that applicant has sufficient funds to successfully accomplish the financing.

(d) Determination of eligible and qualified basis. Eligible and qualified basis shall be as defined by the Internal Revenue Code and these regulations. The Committee shall provide forms to assist applicants in determining basis. The Committee shall rely on certification from an independent, qualified Certified Public Accountant for determination of basis; however, the Committee retains the right to disallow any basis it determines ineligible or inappropriate.

(1) High Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations.

(2) Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven-and-one-half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Tax-exempt bond projects shall not be subject to this limitation.

(e) Determination of Credit amounts. The applicant shall determine, and the Committee shall verify, the maximum allowable Tax Credits and the minimum Tax Credits necessary for financial feasibility, subject to all conditions of this Section. For purposes of determining the amount of Tax Credits, the project's qualified basis shall be multiplied by an applicable Credit percentage established by the Executive Director, prior to each funding cycle. The percentage shall be determined taking into account recently published monthly Credit percentages.

(f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (all rental income) minus vacancy, operating expenses, property taxes, service ame-

nity expenses, operating and replacement reserves and debt service. Applications that qualify for a reservation of Tax Credits from the Nonprofit set-aside homeless assistance apportionment, as described in subsection 10315(b), operating reserves may be added to gross income for purposes of determining "cash flow after debt service."

(g) Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits:

(1) Minimum operating expenses shall include expenses of all manager units and market rate units, and must be at least equal to the following

	SRO/SPN	FAMILY	SENIOR	AT RISK
<i>High Density Projects</i>				
50 or Less Units	\$3,500	\$3,400	\$3,000	\$3,200
51 to 100 Units	\$3,500	\$3,200	\$2,800	\$3,000
More Than 100 Units	\$3,400	\$3,000	\$2,600	\$2,800
<i>Other Projects</i>				
50 or Less Units	\$3,400	\$3,000	\$2,600	\$2,800
51 to 100 Units	\$3,400	\$2,800	\$2,400	\$2,600
More Than 100 Units	\$3,300	\$2,600	\$2,200	\$2,400
<i>Rural Projects</i>				
50 or Less Units	\$3,400	\$2,500	\$2,100	\$2,300
51 to 100 Units	\$3,400	\$2,400	\$2,000	\$2,200
More Than 100 Units	\$3,300	\$2,300	\$1,900	\$2,100

(A) High density projects. For purposes of this subsection, "high density projects" shall be those:

(i) located in census tracts wherein fifteen (15) or more persons per acre reside, as determined by the most recent U.S. Census; or,

(ii) projects designed primarily for families that propose twenty-five (25) or more units per acre, projects designed exclusively for seniors that propose thirty-five (35) or more units per acre, and projects designed primarily for special needs or other populations that propose thirty (30) or more units per acre.

(B) Rural projects. For purposes of this subsection, "rural projects" shall be projects located in rural areas as defined in H & S Code Section 50199.21.

(C) At risk projects that do not meet the criteria of being either family or senior projects shall use the at risk column for operating expenses.

(C) Special needs projects that are less than 100% special needs shall prorate the operating expense minimums, using the special needs operating expenses for the special needs units, and the other applicable operating expense minimums for the remainder of the units.

(2) Out-year calculations shall be a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts,) and a two percent (2%) increase in property taxes.

(3) Property tax expense minimums shall be one percent (1%) of total replacement cost, unless:

(A) the verified tax rate is higher or lower; or,

(B) the proposed sponsorship of the applicant includes an identified 501(c)(3) corporate general partner which will pursue a property tax exemption.

(4) Vacancy and collection loss minimums shall be five percent (5%) for family, seniors, and at-risk proposals, and ten percent (10%) for special needs and SRO proposals, unless waived by the Executive Director based on vacancy data in the market area for the population to be served.

(5) Loan terms, including interest rate, length of term, and debt service coverage, shall be evidenced as achievable and supported in the application, or applicant shall be subject to the prevailing loan terms of a lender selected by the Committee.

(6) Variable interest rate permanent loans shall be considered at the underwriting interest rate, or, alternatively, at the permanent lender's underwriting rate upon submission of a letter from the lender indicating the rate used by it to underwrite the loan. All permanent loan commitments with variable interest rates must demonstrate that a "ceiling" rate is in-

cluded in the loan commitment or loan documentation. If not, the permanent loan will not be accepted by CTCAC as a funding source.

minimum operating expense standards. If the permanent lender(s) and equity investor are in place and present evidence to the Committee that they have agreed to lesser operating expenses, the operating expenses required by this subsection may be reduced by up to 15%. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting applications submitted under Section 10326 of these regulations, when the credit enhancer and the permanent lender provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, or the costs of any service amenities.

cluded in the loan commitment or loan documentation. If not, the permanent loan will not be accepted by CTCAC as a funding source.

(7) "Cash flow after debt service," shall be limited to the higher of twenty-five percent (25%) of the anticipated annual debt service payment or eight percent (8%) of gross income, during any one of the first three years of project operation. Pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at placed in service, must demonstrate that these two limits are not exceeded during the first three years of the project's operation. Otherwise, the maximum annual Federal Credit will be reduced at the time of the 8609 package is reviewed, by the amounts necessary to meet the limitations. The reduction in maximum annual Federal Credit may not be increased subsequent to any adjustment made under this section.

(8) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion. Alternatively, the commercial income shall not support the residential portion without evidence that adequate security will be provided to substitute for commercial income deficits that may arise. Applicants must provide an analysis of the anticipated commercial income and expenses.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4–50199.22, Health and Safety Code.

HISTORY

1. New section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Amendment of subsections (c)(2)(C), (c)(3), (c)(5)(H), (c)(8), (f) and (g)(9) filed 7–21–98; operative 11–20–97 and 12–11–97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
3. Amendment filed 7–26–99; operative 6–3–99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
4. Readoption of emergency action filed 7–26–99, operative 6–3–99; filed 4–3–2000 as an emergency; operative 10–12–99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
5. Readoption of emergency action filed 4–3–2000, operative 10–12–99; filed 4–3–2000 as an emergency; operative 2–9–2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
6. Emergency readoption without change filed 9–22–2000 of an action originally filed 4–3–2000; operative 6–9–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
7. Emergency readoption without change filed 10–23–2000 of an action originally filed 4–3–2000; operative 9–27–2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
8. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10). EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was

superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.

9. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
10. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
15. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refilled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
16. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10328. Conditions on Credit Reservations.

- (a) General. All reservations of Tax Credits shall be conditioned upon:
 - (1) timely project completion;
 - (2) receipt of amounts of Tax Credits no greater than necessary for financial feasibility and viability as a qualified low-income housing project throughout the extended use period;
 - (3) income targets as proposed in the application; and,
- (b) Preliminary reservations. Preliminary reservations of Tax Credits shall be subject to conditions as described in this subsection and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the performance deposit described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the preliminary reservation. However, should the 20-day period for returning the executed reservation letter continue past December 15 of any year, an applicant may be required to execute and return the reservation letter in less than twenty (20) days in order that the reservation be effective. Failure to comply with any shortened period would invalidate the reservation offer and permit the Committee to offer a reservation to the next eligible project.
- (c) Final Reservations. No later than February 1 of the year that the building(s) must be placed-in-service pursuant to Section 42(h)(E)(i) of the Internal Revenue Code of 1986, as amended, the applicant shall provide the Committee a Final Reservation application providing the documentation for the project set forth in Section 10322(i)(1) of these regulations. Failure to provide the documentation at the time required may result in rescission of the Credit reservation and cancellation of a carryover allocation.

Upon receipt of the Final Reservation application and supporting documentation, the Committee shall conduct a financial feasibility and cost reasonableness analysis for the proposed project, and determine if all conditions of the preliminary reservation have been satisfied. Substantive changes to the approved application, in particular, changes to the fi-

ancing plan or costs, need to be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee. If all conditions have been satisfied, a final reservation of Tax Credits shall be made in an amount not to exceed the maximum dollar amount of Tax Credits stated in the Preliminary Reservation. The Committee shall detail in the final reservation letter additional submission requirements necessary to receive tax forms for claiming Tax Credits.

(d) Carryover Allocations. Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation shall satisfy either the Placed-in-service requirements pursuant to subsection 10322(i)(2) or carryover allocation requirements in the year the reservation is made, pursuant to IRC Section 42(h)(1)(E) and these regulations, as detailed below. An application for a carryover allocation must be submitted by October 31 of the year of the reservation, together with the applicable allocation fee, and all required documentation, except that the time for meeting the "10%" test and submitting related documentation, and owning the land, will be no later than six (6) months after the date of the carryover allocation.

(1) Additional documentation and analysis. The Executive Director may request, and the holder of a Credit reservation shall provide, additional documentation required for processing a carryover allocation. Following submission of carryover allocation documents, the Executive Director shall conduct a financial feasibility and cost reasonableness analysis. Substantive changes to the approved application, in particular, changes to the financing plan or costs must be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee. Once the analysis is satisfactorily concluded, a carryover allocation of Tax Credits shall be made in an amount not to exceed the maximum dollar amount of Credit stated in the Preliminary Reservation.

(2) In addition to the requirements of the Internal Revenue Code, to receive a carryover allocation an applicant shall provide evidence that applicant has maintained site control from the time of the initial application and, if the land is not already owned, will continue to maintain site control until the time for submitting evidence of the land's purchase.

(3) Certification. The Committee shall require a certification from an applicant that has received a reservation, that the facts in the application continue to be true before a carryover allocation is made.

(e) Placed-in-service. Upon completion of construction of the proposed project, the applicant shall submit documentation required by Section 10322(i)(2).

(f) Additional Conditions to Reservations and Allocations of Tax Credits. Additional conditions, including cancellation, disqualification and other sanctions may be imposed by the Committee in furtherance of the purposes of the Tax Credits programs.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Amendment of subsection (b)(1)(B), repealer of subsection (b)(1)(C), subsection relettering, and amendment of subsection (d) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
3. Amendment of subsection (a)(3) and repealer of subsection (a)(4) filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
4. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
5. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
6. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
7. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
8. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the

Secretary of State on March 5, 2001 (Register 2001, No. 10). EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.

9. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
10. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
15. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refiled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
16. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10330. Appeals.

(a) Availability. No applicant may appeal the Committee staff evaluation of another applicant's application. An applicant may file an appeal of a Committee staff evaluation, limited to:

- (1) determination of the application point score;
- (2) disqualification from participation in the program pursuant to subsection 10325(c);
- (3) qualification for "additional threshold requirements," pursuant to subsection 10325(g); and,
- (4) determination of the Credit amount, pursuant to Section 10327.

(b) Timing. The appeal must be submitted in writing and received by the Committee no later than seven (7) calendar days following the transmittal date of the Committee staff's point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the appeal.

(c) Review. The initial appeal should be delivered to staff within five days after receipt of the scoring letter. Staff will respond in writing to the appeal letter within 7 days after receipt of the appeal letter. If the applicant is not satisfied with the staff response, the applicant may appeal in writing to the Executive Director within five days after receipt of the staff response letter. The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal. If the applicant is not satisfied with the Executive Director's decision and wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than five days following the date of receipt of the Executive Director's letter. An appeal on any given project, when directed to the Executive Director or the Committee, must be accompanied by a one time, five hundred dollar (\$500) non-refundable fee payment payable by cashier's check to CTCAC. No appeals will be addressed without this payment. The appeal review shall be based upon the existing

documentation submitted by the applicant when the application was filed.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section refiled 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refiled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refiled 6-15-93 as an emergency; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refiled 10-6-93, with amendment of subsection (a), as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
11. Editorial correction of HISTORY 9 (Register 93, No. 41).
12. Repealer and new section refiled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
13. Repealer and new section refiled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refiled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
15. Repealer and new section refiled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
16. Repealer and new section refiled 1-17-95 as an emergency, including amendment of NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refiled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
18. New section including amendment of subsection (b) refiled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
19. New section, including amendment of section and NOTE, refiled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section

- 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1–20–96 or emergency language will be repealed by operation of law on the following day.
20. New section refiled 3–18–96 as an emergency; operative 9–26–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1–24–96 or emergency language will be repealed by operation of law on the following day.
21. New section refiled 3–18–96 as an emergency; operative 10–30–95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2–27–96 or emergency language will be repealed by operation of law on the following day.
22. Repealer and new section filed 8–19–97; operative 2–18–97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
23. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10). EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
24. Emergency readoption without change filed 11–19–2001 of an action most recently filed 3–5–2001; operative 9–17–2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
25. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5–8–2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
26. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4–26–2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
27. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7–19–2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
28. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12–16–2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
29. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4–4–2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
30. Emergency readoption of action adopted by the Committee 2–16–2005 and filed with the Secretary of State 4–4–2005; refiled 11–1–2005; readopted by the Committee and effective 9–28–2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
31. Emergency adoption filed 3–23–2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1–18–2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10335. Fees and Performance Deposit.

(a) Application fee. Every applicant, including tax-exempt bond project applicants, shall be required to pay an application filing fee of \$2,000. This fee shall be paid in a cashier's check payable to the Committee and shall be submitted with the application. This fee is not refundable. Applicants reapplying in the same calendar year for an essentially similar project on the same project site, shall be required to pay an additional \$1,000 filing fee to be considered in a subsequent funding round, regardless of whether any amendments are made to the re-filed application. At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322.

(1) Local Reviewing Agency. One-half of the initial application filing fee shall be provided to an official Local Reviewing Agency (LRA)

which completes a project evaluation for the Committee. The Local Reviewing Agency may waive its portion of the application filing fee. Such waiver shall be evidenced by written confirmation from the LRA, included with the application. An application that includes such written confirmation from an LRA may remit an application filing fee of \$1,000.

(b) Allocation fee. Every applicant who receives a reservation of Tax Credits, except tax-exempt bond project applicants, shall be required to pay an allocation fee equal to four percent (4%) of the dollar amount of the first year's Federal Credit amount reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee paid by cashier's check made payable to the Committee prior to execution of a carryover allocation or issuance of tax forms, whichever comes first. This fee is not refundable.

(c) Appeal fee. Any applicant submitting an appeal to the Executive Director and/or the Committee with respect to CTCAC's action on a given application, will pay a one time fee to CTCAC. This fee, in the amount of five hundred dollars (\$500) must be paid by cashier's check payable to CTCAC, and must accompany the original appeal letter.

(d) Reservation fee. Tax-exempt bond project applicants receiving Credit reservations shall be required to pay a reservation fee equal to one percent (1%) of the annual Federal Tax Credit reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee within twenty (20) days of issuance of a tax-exempt bond reservation or prior to the issuance of tax forms, whichever is first.

(e) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State, Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits, shall be required to submit a performance deposit in an amount equal to four percent (4%) of the first year's State Credit amount reserved for the project. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.

(1) Timing and form of payment. The performance deposit shall be submitted in a cashier's check payable to the Committee within twenty (20) calendar days of the Committee's notice to the applicant of a preliminary reservation.

(2) Returned Tax Credits. If Tax Credits are returned after a reservation has been accepted, the performance deposit is not refundable, with the following exceptions. Projects unable to proceed due to a natural disaster, a law suit, or similar extraordinary circumstance that prohibits project development may be eligible for a refund. Requests to refund a deposit shall be submitted in writing for Committee consideration. Amounts not refunded are forfeited to the Committee. All forfeited funds shall be deposited in the occupancy compliance monitoring account to be used to help cover the costs of performing the responsibilities described in Section 10337.

(3) Refund or forfeiture. To receive a full refund of the performance deposit, the applicant shall do all of the following: place the project in service under the time limits permitted by law; qualify the project as a low-income housing project as described in Section 42; meet all the conditions under which the reservation of Tax Credits was made; certify to the Committee that the Tax Credits allocated will be claimed; and, execute a regulatory agreement for the project.

If the Committee cancels a Credit because of misrepresentation by the applicant either before or after an allocation is made, the performance deposit is not refundable. If the project is completed, but does not become a qualified low-income housing project, the performance deposit is not refundable.

(4) Appeals. An applicant may appeal the forfeiture of a performance deposit, by submitting in writing, a statement as to why the deposit should be refunded. The appeal shall be received by the Committee not later than seven (7) calendar days after the date of mailing by the Committee of the action from which the appeal is to be taken. The Executive

Director shall review the appeal, make a recommendation to the Committee, and submit the appeal to the Committee for a decision.

(f) Compliance monitoring fee. The Committee shall charge a \$410 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee, and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Amendment of subsection (b) refiled 1-6-92 as an emergency; operative 1-6-92 (Register 92, No. 15). A Certificate of Compliance must be transmitted to OAL 5-5-92 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsections (a), (b), (c)(3) and (c)(4) filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refiled, with amendment of subsection (b)(3), 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refiled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refiled 6-15-93 as an emergency; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
12. Repealer and new section refiled 10-6-93, with amendment of subsections (b) and (d)(1) and new subsection (c), as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
13. Editorial correction of HISTORY 11 (Register 93, No. 41).
14. Repealer and new section refiled with new designation of subsection (e) 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section refiled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
16. Repealer and new section refiled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
17. Repealer and new section refiled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refiled 1-17-95 as an emergency, including amendment of NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
19. Repealer and new section refiled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
20. New section including amendment of subsection (d)3, refiled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
21. New section, including amendment of section and NOTE, refiled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
22. New section refiled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
23. New section refiled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
24. Repealer and new section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
25. Amendment of subsections (a) and (a)(1), repealer of subsection (a)(2), and amendment of subsection (e) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
26. Amendment of subsections (a) and (d)(2) filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
27. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
28. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
29. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
30. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
31. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10). EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emergency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.
32. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
33. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19). EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
34. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
35. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).

36. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
37. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
38. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refiled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
39. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10337. Compliance.

(a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.

(b) Responsibility of owner. All compliance requirements monitored by the Committee shall be the responsibility of the project owner. Any failure by the owner to respond to compliance reports and certification requirements will be considered an act of noncompliance and shall be reported to the IRS if reasonable attempts by the Committee to obtain the information are unsuccessful.

(c) Compliance monitoring procedure. As required by Section 42(m), allocating agencies are to follow a compliance monitoring procedure to monitor all Credit projects for compliance with provisions of Section 42. Compliance with Section 42 is the sole responsibility of the owner of the building for which the Credit is allowable. The Committee's obligation to monitor projects for compliance with the requirements of Section 42 does not place liability on the Committee for any owner's noncompliance, nor does it relieve the owner of its responsibility to comply with Section 42.

(1) Record keeping. The owner of a Credit project is required to keep records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of residential rental units in the building that are low-income units; the rent charged for each unit (including utility allowance); the number of household members in each unit; notation of any vacant units; move-in dates for all units; tenant's (i.e., household) income; documentation to support each household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any non-residential portion of the building included in the building's eligible basis.

(2) Record Retention. For each qualified low-income building in the project, and for each year of the compliance period, owners and the Committee are required to retain records of the information described above in "record keeping requirements."

(A) Owners shall retain documents according to the following schedule:

(i) for at least six years following the due date (with extensions) for filing the Federal income tax return for that year (for each year except the first year of the Credit period); and,

(ii) for the first year of the Credit period, at least six years following the due date (with extensions) for filing the Federal income tax return for the last year of the compliance period of the building.

(iii) for local health, safety, or building code violation reports or notices issued by a state or local governmental entity, until the Committee

has inspected the reports or notices and completes the tenant file and unit inspections and the violation has been corrected. This subsection shall take effect beginning January 1, 2001.

(B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective IRS noncompliance Form 8823. Should the Committee require submission of copies of tenant certifications and records, it shall retain them for three years from the end of the calendar year it receives them. Should it instead review tenant files at the management office of the subject project, it shall retain its review notes and any other pertinent information for the same three-year period. The Committee shall retain all other project documentation for the same three-year period.

(3) Certification requirements. Under penalty of perjury, a Credit project owner is required to annually, during each year of the compliance period, meet the certification requirements of U.S. Treasury Regulations 26 CFR 1.42-5(c), (which beginning January 1, 2001, includes certifications that no finding of discrimination under the Fair Housing Act, 42 USC 3601 occurred for the project), that the buildings and low income units in the project were suitable for occupancy taking into account local health, safety, and building codes, that no violation reports were issued for any building or low income unit in the property by the responsible state or local government unit, that the owner did not refuse to lease a unit to an applicant because the applicant had a section 8 voucher or certificate, and that except for transitional or single room occupancy housing, all low income units in the project were used on a nontransient basis. The following must also be certified to by the owner:

(A) the project met all terms and conditions recorded in its Regulatory Agreement, if applicable;

(B) the applicable fraction (as defined in IRC Section 42(c)(1)(B)) met all requirements of the Credit allocation as specified on IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification.);

(C) no change in ownership of the project has occurred during the reporting period;

(D) the project has not been notified by the IRS that it is no longer a "qualified low-income housing project" within the meaning of Section 42 of the IRC;

(E) no additional tax-exempt bond funds or other Federal grants or loans with interest rates below the applicable Federal rate have been used in the Project since it was placed-in-service; and,

(F) report the number of units that were occupied by Credit eligible households during the reporting period.

(4) Status report, file and on site physical inspection. Beginning in 2001, the Committee or its agent will conduct file and on site physical inspections for all projects no later than the end of the second calendar year following the year the last building in the project is placed-in-service, and once every three years thereafter. These physical inspections will be conducted for all buildings and common areas in each project, and for at least 20% of the low-income units in each project. The tenant file reviews will also be for at least 20% of the low-income units in each project, but may be conducted on site or off site. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose, while the units and tenant records to be inspected shall be randomly selected. Advance notice shall not be given of the Committee's selection process, or of which tenant records will be inspected at selected projects; however, an owner shall be given reasonable notice prior to a project inspection.

(A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner within a reasonable period before an inspection is scheduled to occur. The completed PSR form shall be submitted to the Committee by the owner prior to the compliance inspection. The Committee will review the information submitted on the PSR for compliance with income, rent and other requirements prior to performing the tenant file inspection.

(B) Each project undergoing a file inspection will be subject to a physical inspection to assure compliance with local health, safety, and building codes or with HUD's uniform physical condition standards. Owners shall be notified of the inspection results.

(C) The Committee may perform its status report, file inspection procedures and physical inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on other review findings may alter the extent of the review, solely at the Committee's discretion and as allowed by IRS regulations. The Committee may rely on reports of site visits prepared by lenders or other governmental agencies, at its sole discretion. The Committee shall, whenever possible, coordinate its procedures with those of other agencies, lenders and investors.

(5) Notification of noncompliance. The Committee shall notify owners in writing if the owner is required to submit documents/information related to either the physical or tenant file inspection. If the Committee does not receive the information requested, is not permitted or otherwise is unable to conduct the inspections or discovers noncompliance with Section 42 as a result of its review, the owner shall be notified in writing before any notice is sent to the IRS.

(6) Correction period. It is the intention of the Committee that owners be given every reasonable opportunity to correct any noncompliance. Owners shall be allowed an opportunity to supply missing tenant file documents or to correct other noncompliance within a correction period no longer than ninety (90) days from the date of written notice by the Committee to the owner, unless the violation constitutes an immediate health or safety issue, in which case, the correction should be made immediately. With good cause, the Committee may grant up to a six-month extension of the correction period upon receipt of a written justification from the owner.

(7) IRS and FTB notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.

(d) Change in ownership. It is the project owner's responsibility to inform the Committee of any change in the ownership of the project and the owner's mailing address.

(e) First year's 8609. Project owners shall be required to submit a copy of the executed first year's filing of IRS Form 8609 (Low-Income Housing Credit Allocation Certification) for inclusion in the Committee's permanent project records.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. New section filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).
2. Editorial correction of subsections (c)(4)(C) and (e) (Register 98, No. 30).
3. Amendment of subsections (c)(2)(B) and (c)(3)(B) and new subsection (f) filed 7-21-98; operative 11-20-97 and 12-11-97 pursuant to Health and Safety Code section 50199.17 (Register 98, No. 30).
4. Amendment of subsections (a), (c), (c)(3)(D), (c)(3)(F), (c)(4) and (c)(4)(B)-(C) and new subsection (c)(4)(D) filed 7-26-99; operative 6-3-99 pursuant to Health and Safety Code section 50199.17 (Register 99, No. 31).
5. Readoption of emergency action filed 7-26-99, operative 6-3-99; filed 4-3-2000 as an emergency; operative 10-12-99 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 14).
6. Readoption of emergency action filed 4-3-2000, operative 10-12-99; filed 4-3-2000 as an emergency; operative 2-9-2000 pursuant to Health and Safety Code section 50199.17, with amendment of section (Register 2000, No. 14).
7. Emergency readoption without change filed 9-22-2000 of an action originally filed 4-3-2000; operative 6-9-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 38).
8. Emergency readoption without change filed 10-23-2000 of an action originally filed 4-3-2000; operative 9-27-2000 pursuant to Health and Safety Code section 50199.17 (Register 2000, No. 43).
9. Emergency amendment effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2001, filed with the Secretary of State on March 5, 2001 (Register 2001, No. 10). EDITOR'S NOTE: On December 20, 2000, the Committee adopted and made effective an emer-

gency amendment to an earlier version of this regulation; this amendment was superseded by the February 16, 2001 amendment. The December 20, 2000 amendment was filed with the Secretary of State on March 5, 2001; it was not printed in the California Code of Regulations.

10. Emergency readoption without change filed 11-19-2001 of an action most recently filed 3-5-2001; operative 9-17-2001 pursuant to Health and Safety Code section 50199.17 (Register 2001, No. 47).
11. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on March 19, 2003, filed with the Secretary of State on 5-8-2003 (Register 2003, No. 19).
EDITOR'S NOTE: These March 19, 2003 emergency regulations supersede prior emergency regulations adopted and made effective by the Committee on January 29, 2003. The January 29 emergency regulations were filed with the Secretary of State on May 8, 2003, but were never printed in the California Code of Regulations.
12. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 18, 2004, filed with the Secretary of State on 4-26-2004. These February 18, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 18).
13. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on June 16, 2004, filed with the Secretary of State on 7-19-2004. These June 16, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 30).
14. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on October 5, 2004, filed with the Secretary of State on 12-16-2004. These October 5, 2004 emergency regulations supersede prior emergency regulations (Register 2004, No. 51).
15. Emergency adoption effective pursuant to Health and Safety Code section 50199.17 upon adoption by the Committee on February 16, 2005, filed with the Secretary of State on 4-4-2005. These February 16, 2005 emergency regulations supersede prior emergency regulations (Register 2005, No. 14).
16. Emergency readoption of action adopted by the Committee 2-16-2005 and filed with the Secretary of State 4-4-2005; refiled 11-1-2005; readopted by the Committee and effective 9-28-2005 pursuant to Health and Safety Code section 50199.17 (Register 2005, No. 44).
17. Emergency adoption filed 3-23-2006; conclusively presumed to be an emergency and effective upon adoption by the Committee on 1-18-2006 pursuant to Health and Safety Code section 50199.17(c) and (d). This filing supercedes prior emergency regulations and is exempt from the Administrative Procedure Act except as provided in Health and Safety Code section 50199.17 (a) and (b) (Register 2006, No. 12).

§ 10340. Administrative Matters.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption and amendment of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
5. Readoption of emergency action filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 48). The regulation will be repealed by operation of law on 7-26-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Amendment of subsections (a) and (d) filed 7-25-91 as an emergency; operative 7-11-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 48). The amendments will be repealed by operation of law on 11-8-91 unless, before that date, the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
8. Amendment of subsections (a) and (d) refiled 1-6-92 as an emergency; operative 1-6-92 (Register 92, No. 15). A Certificate of Compliance must be transmitted to OAL 5-5-92 or emergency language will be repealed by operation of law on the following day.

9. Amendment of subsections (a) and (d) filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refiled 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
12. Repealer and new section refiled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
13. Repealer and new section refiled 6-15-93 as an emergency, including new subsection (a) and subsection relettering; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refiled 10-6-93, with amendment of subsections (e)-(g), as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
15. Editorial correction of HISTORY 13 (Register 93, No. 41).
16. Repealer and new section refiled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refiled with amendments 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refiled 6-29-94 as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
19. Repealer and new section refiled 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
20. Repealer and new section refiled 1-17-95 as an emergency, including amendment of subsections (e)2., (e)4., (e)8. and NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
21. Repealer and new section refiled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
22. New section refiled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
23. New section, including amendment of section and NOTE, refiled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
24. New section refiled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
25. New section, including amendment of subsection (g), refiled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be trans-

mitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.

26. Repealer filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).

§ 10341. Issuance of Reservations and Allocations.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Editorial correction of HISTORY 1. (Register 91, No. 4).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 97, No. 34).

§ 10342. Application of Forms and Information.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Editorial correction of HISTORY 1. (Register 91, No. 4).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10343. Application Procedures.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

[The next page is 301.]

HISTORY

1. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Editorial correction of HISTORY 1. (Register 91, No. 4).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10344. Allocation of Housing Credit Dollar Amounts.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Editorial correction of HISTORY 1. (Register 91, No. 4).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10345. Application Requirements.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.6-50199.22, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17). For prior history, see Register 89, No. 2.
2. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
3. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
4. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant

to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
6. Amendment of subsections (a) and (c) and Application Form filed 3-16-92 as an emergency; operative 1-16-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-14-92 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new section filed 7-1-92 as an emergency; operative 5-15-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-2-92 or emergency language will be repealed by operation of law on the following day.
8. Repealer and new section refiled with amendment of subsection (c) 11-9-92 as an emergency; operative 8-31-92 (Register 92, No. 46). A Certificate of Compliance must be transmitted to OAL 3-9-93 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section refiled 1-28-93 as an emergency; operative 12-29-92 (Register 93, No. 5). A Certificate of Compliance must be transmitted to OAL 5-28-93 or emergency language will be repealed by operation of law on the following day.
10. Repealer and new section refiled 6-15-93 as an emergency; operative 4-2-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 7-31-93 or emergency language will be repealed by operation of law on the following day.
11. Repealer and new section refiled 10-6-93, with amendment of subsection (c) and Application form, as an emergency; operative 7-21-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-18-93 or emergency language will be repealed by operation of law on the following day.
12. Editorial correction of HISTORY 10 (Register 93, No. 41).
13. Repealer and new section refiled 12-20-93 as an emergency; operative 11-18-93 pursuant to Health and Safety Code section 50199.17 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 3-18-94 or emergency language will be repealed by operation of law on the following day.
14. Repealer and new section refiled with amendment of subsection (c) and forms 5-3-94 as an emergency; operative 1-25-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 18). A Certificate of Compliance must be transmitted to OAL by 5-25-94 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section refiled 6-29-94 with amendment of forms as an emergency; operative 5-28-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 26).
16. Repealer and new section refiled with amendment of forms 10-24-94 as an emergency; operative 9-22-94 pursuant to Health and Safety Code section 50199.17 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 1-20-95 or emergency language will be repealed by operation of law on the following day.
17. Repealer and new section refiled 1-17-95 as an emergency, including amendment of subsection (c), forms, and NOTE; operative 1-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-22-95 or emergency language will be repealed by operation of law on the following day.
18. Repealer and new section refiled 7-7-95 as an emergency; operative 5-20-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 9-17-95 or emergency language will be repealed by operation of law on the following day.
19. New section refiled 7-17-95 as an emergency; operative 5-25-95 pursuant to Health and Safety Code section 50199.17 (Register 95, No. 29). A Certificate of Compliance must be transmitted to OAL by 9-22-95 or emergency language will be repealed by operation of law on the following day.
20. Editorial correction of page iv of form (Register 96, No. 12).
21. New section, including amendment of section and NOTE, refiled 3-18-96 as an emergency; operative 9-22-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 12). A Certificate of Compliance must be transmitted to OAL by 1-20-96 or emergency language will be repealed by operation of law on the following day.
22. New section, including amendment of application form, refiled 3-18-96 as an emergency; operative 9-26-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 13). A Certificate of Compliance must be transmitted to OAL by 1-24-96 or emergency language will be repealed by operation of law on the following day.
23. New section refiled 3-18-96 as an emergency; operative 10-30-95 pursuant to Health and Safety Code section 50199.17 (Register 96, No. 14). A Certificate of Compliance must be transmitted to OAL by 2-27-96 or emergency language will be repealed by operation of law on the following day.
24. Repealer filed 8-19-97; operative 2-18-97 pursuant to Health and Safety Code section 50199.17 (Register 97, No. 34).

PLEASE ATTACH \$2,000 APPLICATION FEE HERE.

(\$1,000 if you provide an LRA waiver)

TCAC WILL ONLY ACCEPT CASHIER'S CHECKS.

APPLICANT NAME: _____

PROJECT NAME: _____

THE APPLICANT'S STATEMENT

Each applicant is required to sign, date, and have notarized, the following statement. Changes or deletions to this statement or any part of the TCAC application are not permitted. Failure to sign, date, and notarize this statement will deem this application incomplete.

The undersigned applicant hereby makes application to the California Tax Credit Allocation Committee (TCAC) for a reservation of federal, or federal and state, Low-Income Housing Tax Credits (Credits) in the amount(s) of \$_____ annual federal Credits and/or \$_____ total state Credits for the purpose of providing low-income rental housing as herein described. I understand that the tax credit amount(s) preliminarily reserved for this project, if any, may be adjusted over time based upon changing project costs and the financial feasibility analyses which TCAC is required to perform on at least three occasions.

I agree it is my responsibility to provide TCAC with a complete application and to provide such other information as TCAC requests as necessary to evaluate my application. I represent that if a reservation or allocation of Credits is made as a result of this application, I will also furnish promptly such other supporting information and documents as may be requested. I understand that TCAC may verify information provided and analyze materials submitted as well as to conduct its own investigation to evaluate the application. I recognize that I have an affirmative duty to inform TCAC when any information in the application or supplemental materials is no longer true and to supply the TCAC with the latest and accurate information.

I acknowledge that if I receive a reservation of Credits, I will be required to submit requisite documentation at each of the following stages: for application for a final reservation; for a carryover allocation; and for an allocation at the time the project is placed-in-service.

In carrying out the development and operation of the project, I agree to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all Credit program requirements, rules, and regulations.

I represent I have read Section 42 of the Internal Revenue Code (IRC) pertaining to federal Credits, and if applying for state credits, I represent I have also read California Health and Safety Code Sections 50199.6 et seq. and California Revenue and Taxation Code Sections 12206, 17058, and 23610.5 pertaining to the state Credit program. I understand that the federal and state Credit programs are complex and involve long-term responsibilities to maintain the housing for qualified low-income households. I acknowledge that the TCAC has recommended that I seek advice from my own tax attorney or tax advisor.

I acknowledge that neither the federal nor the state Credit programs are entitlement programs and that my application will be evaluated based on the Credit statutes, regulations, and the Qualified Allocation Plan adopted by TCAC which identify the priorities and other standards which will be employed to evaluate applications.

I acknowledge that an award of federal or state Credits does not guarantee that the project will qualify for tax credits. Both federal law and the state law require that various requirements be met on an ongoing basis. I agree that compliance with these requirements is the responsibility of the applicant.

I agree that TCAC will determine the credit amount to comply with requirements of IRC Section 42 but that TCAC in no way warrants the feasibility or viability of the project to anyone for any purpose. I acknowledge that TCAC makes no representation regarding the effect of any tax credits which may be allocated and makes no representation regarding the ability to claim any Credits which may be allocated.

I acknowledge that the information submitted to TCAC in this application or supplemental thereto may be subject to the Public Records Act or other disclosure. I understand that the TCAC may make such information public.

I certify that I believe that the project can be completed within the development budget and the development timetable set forth (which timetable is in conformance with TCAC rules and regulations) and can be operated in the manner proposed within the operating budget set forth.

I further certify that more than 10% of the project's total reasonably expected basis cost will be incurred and the land acquired by October 1, 1996 for 1st cycle applicants, and November 1, 1996 for 2nd cycle applicants.

I agree that the TCAC is not responsible for actions taken by the applicant in reliance on a prospective Credit reservation or allocation.

I agree to hold TCAC, its members, officers, agents, and employees harmless from any matters arising out of or related to the Credit programs.

I acknowledge that if I obtain an allocation of federal and/or state Credits, I will be required to enter into a regulatory contract which will contain, among other things, all the conditions under which the credit was provided including the selection criteria delineated in this application.

I acknowledge that all materials and requirements are subject to change by enactment of federal or state legislation or promulgation of regulations.

I declare under penalty of perjury that the information contained in the application, exhibits, attachments, and any further or supplemental documentation is true and correct to the best of my knowledge and belief. I understand that misrepresentation may result in cancellation of a credit reservation, notification of the Internal Revenue Service and the Franchise Tax Board, and other actions which the TCAC is authorized to take pursuant to California Health and Safety Code Section 50199.22 or under general authority of state law.

Dated this _____ day of _____, 199____ at _____,
California.

By: _____
(Original Signature)

(Typed or printed name)

Title

ACKNOWLEDGEMENT

STATE OF CALIFORNIA

COUNTY OF _____)

On this _____ day of _____ in the year _____, before me,

_____, personally appeared _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/
their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

Given under my hand and official seal this _____ day of _____,
_____.

[SEAL]

Notary Public

My commission expires:

Amended and Adopted September 26, 1995

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CHIEF EXECUTIVE OFFICER OF THE LOCAL JURISDICTION

The allocating agency is required by Federal statute (IRC Sec. 42(m)) to notify the Chief Executive Officer (e.g., city manager, county administrative officer) of the local jurisdiction within which the proposed project is located and provide such individual an opportunity to comment on the project. The following information is needed in order to comply. Do not list an elected official.

Name of Jurisdiction: _____

Name of Chief Executive Officer: _____

Title: _____

Street Address: _____

City: _____

Zip: _____

Area Code and Phone Number: (____) _____ FAX (____) _____

Attach a copy of Attachment 20, the Project Description, to this page.

pliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.

4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10356. Completion of Project.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. New section filed 12-30-88 pursuant to Health and Safety Code section 50199.17; operative 12-30-88 (Register 89, No. 2).
2. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10357. Failure to Place Project in Service by December 31st.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. New section filed 12-30-88 pursuant to Health and Safety Code section 50199.17; operative 12-30-88 (Register 89, No. 2).
2. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

§ 10358. Application Fee, Performance Deposit Forfeiture and Appeals.

NOTE: Authority cited: Section 50199.17, Health and Safety Code. Reference: Sections 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.7-50199.19, Health and Safety Code.

HISTORY

1. New section filed 12-30-88 pursuant to Health and Safety Code section 50199.17; operative 12-30-88 (Register 89, No. 2).
2. Repealer filed 7-30-90 as an emergency; operative 7-17-90 (Register 90, No. 41). A Certificate of Compliance must be transmitted to OAL by 11-14-90 or emergency language will be repealed by operation of law on the following day. This action is not subject to review by OAL (Health and Safety Code section 50199.17).
3. Readoption as an emergency of action originally filed as emergency on 7-30-90 filed 11-26-90; operative 11-13-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3-26-91 or emergency language will be repealed by operation of law on the following day.
4. Readoption of emergency action filed 11-26-90, filed 1-4-91 as an emergency; operative 12-18-90 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 8). The regulation will be repealed by operation of law on 4-17-91 unless, before that date the committee has completed the adoption process pursuant to Health and Safety Code section 50199.17(b).
5. Readoption of emergency actions and amendment filed 11-26-90 and 1-4-91 as an emergency filed 4-19-91 as an emergency; operative 3-28-91 pursuant to Health and Safety Code section 50199.17 (Register 91, No. 21). A Certificate of Compliance must be transmitted to OAL on 7-26-91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-28-91 order transmitted to OAL 7-16-91 and filed 8-15-91 pursuant to Health and Safety Code section 50199.17(b) (Register 91, No. 48).
7. Editorial correction of NOTE (Register 99, No. 31).

Chapter 2. Farm Workers Housing Assistance Program

§ 11000. Purpose and Scope.

The California Health and Safety Code Chapter 3.7 of Part 1 of Division 31 commencing with Section 50199.50 and California Revenue and Taxation Code Sections 17053.14, 23608.2 and 23608.3 established the Farmworker Housing Assistance Program and designated the California Tax Credit Allocation Committee as the agency to administer the program and promulgate rules and regulations, policies and procedures governing the Committee's management of the program. These regulations establish procedures for the reservation, allocation and compliance monitoring of the Farmworker Housing Assistance Program. In the event that the California Legislature, or the California Franchise Tax Board adds or changes any statutory or regulatory requirements concerning the use or management of the program, participants shall comply with such requirements.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Section 50199.51, Health and Safety Code.

HISTORY

1. New chapter 2 (sections 11000-11008) and section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11001. Definitions.

- (a) Agricultural Worker or Farmworker. As defined in subdivision (b) of Section 1140.4 of the Labor Code.
- (b) Allocation. The action taken by the Committee in awarding credit to an applicant.
- (c) Cash flow or Cash flow after debt service. The gross income minus vacancy and collection loss, operating expenses, property taxes, replacement reserves and debt service.
- (d) Committee. The California Tax Credit Allocation Committee.
- (e) Compliance period. The period of 30 consecutive taxable or income years beginning with the taxable or income year in which the credit is allowable.
- (f) Critical occurrence. A declaration of a federal or state emergency by the Governor of the State of California; or, a declaration by the Committee subsequent to an event or series of events occurring within a county or local area in which a Farmworker Housing Assistance Program

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project is located which threatens the welfare or safety of a project or the tenants of the project.

(g) Developer Fee. Amount of identified uses of project funds paid as compensation for developing a proposed project that includes all Credit consultant fees, broker fees, processing agent fees, developer overhead and profit, compensation for any construction management oversight provided by the developer, the cost of any personal guarantees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.

(h) Economic Feasibility. Determinations of the Committee based upon evidence submitted by the applicant that financial capacity exists to complete or ensure completion of a project and to sustain, operate and maintain, or ensure the operation and maintenance of the project for the compliance period; and, that the project operating budget is adequate to operate the project for the compliance period

(i) Eligible Costs. Total finance costs, construction costs, excavation costs, installation costs and permit costs paid or incurred to construct or rehabilitate farmworker housing. Eligible costs include but are not limited to improvements to ensure compliance with laws governing access for persons with disabilities and costs related to reducing utility expenses. Non Eligible Costs include land and those costs financed by grants and below market financing provided by federal or State government.

(j) Family housing projects. A project where all units consist of 3 or more rooms for households as defined below.

(k) FTB. California Franchise Tax Board.

(l) Household. As defined in Section 7602 of Title 25 of the California Code of Regulations.

(m) Qualified accountant. As defined in Section 17053.14(f)(7) of the Revenue and Taxation Code.

(n) Qualified farmworker housing. Housing located within this state which satisfies the requirements of the Farmworker Housing Assistance Program as specified in Revenue and Taxation Code Section 17053.14(f)(5).

(o) Qualified year. As defined in Section 23608.2(a)(3) of the Revenue and Taxation Code.

(p) Reservation. The preliminary award of Credit to a proposed project intended to be eligible for Credit.

(q) Total Project Costs. Total finance costs, construction costs, excavation costs, installation costs, land costs and permit costs paid or incurred to construct or rehabilitate farmworker housing. Eligible costs include but are not limited to improvements to ensure compliance with laws governing access for persons with disabilities and costs related to reducing utility expenses. Non Eligible Costs include any costs associated with the syndication of the Credit.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Sections 50199.50, 50199.55(a) and 50199.56, Health and Safety Code; and Sections 17053.14(a), (b), (f), 23608.2(f) and 23608.3(f), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11002. General Provisions.

(a) General. Each February the Committee shall provide the FTB with a listing of project owners reserved and or allocated credit during the preceding calendar year. The Committee, as the agency charged with enforcing the program regulations and statutes, shall report any violations of program regulations to the FTB.

(b) Purpose. These regulations implement the Farmworker Housing Assistance Program which shall provide assistance for the housing of farmworkers and their families. Preference shall be given family projects. Housing types may consist of single-family residences, multi-family residences, manufactured housing, mobile homes or dormitory style dwellings. The program shall allow dormitory style housing to be restricted by sex. Farmworkers need not be employees of the property owner upon which the farmworker housing project is located.

(c) Tax credit. The Committee shall allocate Credit calculated on the project's Eligible Costs. Applicants for the Farmworker Housing Assistance Program may be project owners or a bank or financial institution.

(1) Credit shall not be allowed unless:

(A) The project is constructed or rehabilitated under covenants, conditions and restrictions imposed by this program and pursuant to the Farmworker Housing Assistance Program;

(B) The owner operates or ensures the operation of the farmworker housing pursuant to the requirements of the program for the term of the compliance period;

(C) The owner obtains a cost audit and certification of Eligible Costs from a qualified accountant;

(D) The owner enters into a regulatory agreement with TCAC which will be recorded against the land;

(E) The taxpayer obtains a TCAC 3521B (7/97) from the Committee indicating the amount of credit for which the project qualifies.

(2) For owners of farmworker housing, the credit allocated shall be an amount equal to the lesser of fifty percent (50%) of the Eligible Costs as defined in Section 11001 or the amount allocated to the taxpayer for the income year.

(A) No credit can be claimed until the qualified year as defined in Section 11001.

(B) Should the credit exceed the taxpayer's tax liability, the excess may be carried over to reduce the tax liability in the following years until the credit is exhausted.

(C) No costs paid or incurred prior to January 1, 1997 are allowable.

(D) Any costs paid or incurred prior to application are not allowable.

(3) For banks and financial institutions, the credit allocated shall be an amount equal to fifty percent (50%) of the difference between the amount of interest income which could have been collected had the loan rate been one point above prime, or any other index used by the lender, and the lesser amount of interest income actually due for the term of the loan by the bank or financial corporation. Credit will be calculated only on those portion(s) of loans funding Eligible Costs.

(d) Reservation. The Committee shall allocate Credit annually through one or more funding cycles dependent upon the availability of credit after the award of credit each cycle. The filing deadlines for the funding cycles shall be 5:00 p.m. of the last business day of March, June, September and October. Applications not received by the filing deadline for a funding cycle will not be considered until the following cycle.

(e) Waiting list. Waiting list Credit. Credit returned during any calendar year, and not made available in a reservation cycle, shall be made available to the highest ranking applications on Committee waiting lists.

(f) Subsequent year's ceiling. The Committee in its discretion may make reservations of Credit against a subsequent year's federal and state credit ceilings.

(g) Credit amounts available. The amount of Credit shall be established according to the following provisions:

(1) Amount of Credit. The amount available shall be equal to the sum of:

(A) \$500,000.00 plus the unused Credit balance from the preceding calendar year as of the date of the application deadline;

(B) Returned Credit. Credit returned and not allocated during any calendar year shall be made available for funding applications in the subsequent year.

(h) Credit and ownership transfers. Banks or financial institutions shall not transfer or assign loans for which credit was awarded nor shall an owner of a project receiving credit transfer or assign the project without prior written approval of the Committee.

(1) Any proposed transaction shall be evidenced by a written agreement between the parties and shall include agreements entered into by the entity and the Committee.

(2) The entity proposing to acquire the ownership of a project shall be subject to a "qualifications review" by the Committee to determine if sufficient project development, financial capability and management exper-

tise exists for owning or operating or ensuring the operation and maintenance of a Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the financial capacity of said persons, shall be provided to the Committee upon request.

(3) Banks or financial institutions which are recipients of Credit shall notify TCAC of any sale or assignment of a loan generating said credit. The notification shall indicate whether the bank or financial institution originating the loan will retain the servicing of the loan. The notification shall include the name, address, and contact person of the bank or financial institution purchasing the loan.

(A) The original lender may continue to claim credit if the servicing responsibilities are retained upon sale or transfer of the loan.

(i) Separate Application. A separate application is required for each project in an application cycle.

(j) Application forms. Applicants shall submit the application form FHAP-1 1998 approved by the Committee and incorporated by reference in full.

(1) A bank or financial institution requesting Credit for a below market interest rate loan made to a qualified project shall complete those portions of the application indicated and provide supplemental information as requested by the Committee.

(k) Late applications. Applications received after the application filing deadline shall not be accepted.

(l) Incomplete application. Applications not meeting all program and threshold requirements shall be considered incomplete and shall be disqualified from the cycle in which the application was submitted. Incomplete applications shall be retained by the Committee and the applicant shall be notified by the Committee of the disqualification.

(m) Complete application. An application shall be deemed complete when the Committee determines that the application meets all program and threshold requirements. The applicant is responsible for providing evidentiary material that demonstrates, to the Committee's satisfaction, conformance with all program and threshold requirements.

(n) Application changes. An application or any portion of an application may not be changed following the application filing deadline.

(o) Substantially complete application. Notwithstanding the previous paragraphs, applicants submitting substantially complete applications with missing documents shall be given five (5) business days from the date of receipt of Committee notification to submit the requested documents to complete the application. If the required documents are not submitted within the time provided, the application shall be considered incomplete. The applicant shall demonstrate and confirm that evidentiary documents missing from the application were executed on, or prior to, the application filing deadline.

(p) Disqualifying event. Should the committee determine that the applicant was awarded credit based on fraud or misrepresentation, or if the taxpayer fails to comply with the requirements of the Employee Housing Act, if applicable, the Farmworker Housing Assistance Program, or any other requirement imposed under this section the Committee will take one or more of the following actions:

(1) Declare an application invalid and the applicant shall forfeit all fees paid; or, if a Credit has been reserved or allocated, recapture or rescind the Credit;

(2) Notify the FTB of the disqualifying event and retain all fees paid to the Committee.

(3) In accordance with Sections 17053.14 (k), 23608.2 (k), 23608.3 (g) of the Revenue and Taxation Code, the applicant shall be subject to the fines and penalties imposed by these sections.

(q) Noncompliance. The applicant has an affirmative duty to provide true and correct information to the Committee at all times. Upon being informed, or finding, that the project, or taxpayer, or any person acting on behalf of a taxpayer or on behalf of a project, has failed to comply with the Farmworker Housing Assistance Program, or any other requirement imposed by the Committee in these regulations, the Committee may,

based upon the findings, declare that a "disqualifying event" has occurred and shall notify the FTB.

(r) Damage or Destruction. In the event that the farmworker housing project is damaged or destroyed by a casualty not caused by the owner, the compliance period has not expired and the owner commences reasonable action to repair or replace the farmworker housing, the taxpayer may continue to claim the credit as if no damage or destruction had taken place.

(1) The taxpayer shall notify the Committee of such an event within fifteen (15) calendar days subsequent to the occurrence.

(2) The taxpayer shall provide documentation demonstrating the commencement of reasonable action to repair or replace the farmworker housing.

(3) Based upon the evidence provided, the Committee shall determine if the taxpayer remains in compliance with the program regulations. If the Committee determines that the taxpayer has not remained in compliance, the Committee may determine that a "disqualifying event" has occurred and take such actions as described in Sections 17053.14 (k), 23608.2 (k) and 23608.3 (g) of the Revenue and Taxation Code.

(s) Project no longer feasible or no further need. If the farmworker housing project is determined by the Committee to be no longer economically feasible or that there is no further need for the housing, the Committee may invoke Section 50199.54 of the Health and Safety Code and recapture the Credit previously allocated.

(t) Standard application documents.

(1) Applicant Certification Statement. A signed, notarized statement acknowledging and certifying, under penalty of perjury, that all information provided the Committee is true and correct and that the applicant affirms the duty to notify the Committee of any changes causing information to become false or misleading. The applicant statement shall certify that the applicant:

(A) is familiar with and will comply with the Credit program, statutes and regulations;

(B) holds the Committee and its employees harmless from program-related matters;

(C) acknowledges the potential for program modifications resulting from statutory or regulatory actions;

(D) acknowledges that Credit amounts reserved or allocated may be reduced should the terms and amounts of project sources and uses of funds be modified;

(E) agrees to comply with applicable laws outlawing discrimination;

(F) acknowledges that the Committee has recommended the applicant seek tax advice;

(G) acknowledges that the application will be evaluated according to program regulations, and that Credit is not an entitlement;

(H) acknowledges that continued compliance with program requirements is the responsibility of the applicant or a Committee approved transferee and that failure to comply with program requirements at any time may result in the Committee's declaration of a disqualifying event;

(I) acknowledges that information submitted to the Committee is subject to the Public Records Act;

(J) agrees to enter into a regulatory agreement with the Committee if Credit is allocated;

(K) acknowledges that upon the declaration of a natural disaster or critical occurrence, at any time during the compliance period, and at the discretion of the owner, the housing may be utilized for households needing shelter for up to 60 days if there are no farmworkers who have submitted an application to reside, or to continue to reside, in the housing.

(2) The Application form. All applicants shall provide the following:

(A) General Applicant Information

(1) Business name and status, including contact person, address, FAX and phone numbers and taxpayer identification number.

(2) Applicant's present and future role in ownership during the compliance period.

(3) Credit amount requested.

(B) Proposed Project Information

(1) Subject Property Information

(a) A preliminary title report of the subject property.

(b) Site and surrounding area description. A narrative description of the proposed use of the subject property, all adjacent property land uses, and any environmental or toxic concerns. Labeled photographs or color copies of the subject property and all adjacent properties shall be provided.

(c) Unique site features. A description of any unique features of the subject property which could result in increased project costs, toxic or environmental mitigation.

(d) Construction and design description. A detailed description of the proposed construction and design.

(e) Architectural drawings. If applicable, preliminary drawings of the proposed project including a site plan, building elevations, and unit floor plans which include unit and total square footage.

(f) If rehabilitation, a current (dated not more than 6 months prior to the application deadline) appraisal and a copy of the purchase contract.

(g) If rehabilitation, a tenant relocation plan, if applicable.

(h) Placed-in-service schedule. An estimated time schedule for the placed-in-service date(s) for each building and the total project.

(2) Land Use Approvals

(a) Evidence that all local approvals necessary to construct or rehabilitate the project have been obtained

(C) Financing plan. A detailed description that includes construction loan, permanent loan, bridge loan sources, and other fund sources, rental income, operating subsidies and reserves. The commitment status of all sources shall be provided along with supporting documentation from the lenders. All non-traditional financing arrangements shall be fully explained and accompanied with supporting documentation. Additionally, the following information is required:

(1) Lender's names, addresses, FAX and phone numbers, and contact person.

(2) Loan amount (rate, term, payments and anticipated usage) and commitment status.

(3) Sources and Uses of Funds. Itemize by line item the use of funds.

(4) Cash flow projection. A cash flow projection for the entire 30 year compliance period in which income projections increase at 2.5% per year, expense projections increase at 3.5% per year and property taxes increase at 1.0% per year.

(D) Threshold Compliance Summary. Completion of the relevant checklist itemizing the documentation provided by the applicant in the application.

(E) Identities of interest. Identification of any persons or entities (including affiliated entities) that plan to provide development, operational services, or financial support to the proposed project.

(F) Organizational documents. All existing or proposed organizational documents of the applicant, including a detailed description of the ownership role of the applicant throughout the compliance period.

(G) Use of Credit. A detailed explanation of how the Credit will be used by the applicant.

(H) Cost Certification. For new construction or rehabilitation, the applicant shall provide, from a qualified accountant, a construction cost audit and a certification of Eligible Costs.

(I) Terms of syndication. If the Credit is to be syndicated, the applicant shall meet the following requirements:

(1) A written estimate from the syndicator of the amount of equity dollars expected to be raised based upon the amount of Credit requested including pay-in schedules, syndication costs, all syndicator and consulting fees and an estimated tax credit factor shall be included in the application.

(2) No syndication costs shall be included as part of the Total Project Cost.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Sections 50199.52(a)(2), 50199.52(c), 50199.53(c), 50199.54(a) and (b) and 50199.55(a), Health and Safety Code; and Sections 17053.14(a), (b), (d), (e), (f),

(k) and (l), 23608.2(b), (e), (f), (k) and (l) and 23608.3(b), (c), (d), (e), (f) and (g), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11003. Application Selection Criteria.

(a) General. All applicants requesting Farmworker Housing Assistance Program Credit shall be eligible to apply under this Section for a reservation and allocation of Credit.

(1) Application review period. The Committee may require up to forty-five (45) days to review an application and an additional fifteen (15) days from the closing date of the application filing period to consider the application for a reservation of Credit.

(2) Application evaluation. Applications shall be evaluated to determine if complete, by meeting all threshold requirements; if economically feasible, by demonstrating the financial capacity to complete the project; and, the adequate financial capacity, resources and sufficient expertise to successfully develop, own and maintain the proposed project for the term of the compliance period.

(3) The applicant shall apply to the Committee for certification of Credit prior to incurring project costs.

(b) Selection Criteria. Applications shall be evaluated and scored based upon cost efficiency as described below. Applications shall compete with other applications and shall be funded based upon the availability of Credit, and the cost efficiency score. Family housing projects as defined in Section 11001 will be given first priority in the allocation of Credit with secondary preference given to all other projects. Applications receiving a Credit reservation will be those with the lowest cost per square foot as described below. The criteria are:

Primary Criteria—Cost Efficiency. The score consists of the following factors: Total Estimated Project Cost and Total Residential Square Footage. Score shall be determined by dividing the Total Project Cost by the Total Residential Square Footage to obtain the Cost per square foot. The resulting calculation shall be carried out to the third decimal point (i.e., \$89.756 per square foot).

(2) Tie-breakers. In the event that two or more applications receive the same score under the Primary Criteria, tie-breaker criteria shall be applied to establish the order of selection priority. The following tie-breakers shall be employed:

(A) First Tiebreaker—Financial Readiness. Points are based upon total project costs compared to the total financing formally committed at the time of application. Financing for this purpose includes loans, grants, investor and owner equity. Score shall be determined by dividing the Total Committed Financing by the Total Project Costs. The resulting calculation shall be carried out to the fourth decimal point (i.e., .4899). Projects shall be ranked with the highest percentage of Total Committed Financing first and so forth in that order.

(B) Second Tiebreaker—Equity Contribution. Points are based upon equity contribution related to the Credit. Score shall be determined by dividing the equity contribution related to the Credit by the amount of the Credit. The resulting calculation shall be carried out to the fourth decimal point (i.e., .7255). Projects shall be ranked with the highest percentage of Equity Contribution first and so forth in that order.

(c) Thresholds. The following thresholds shall be met to the Committee's satisfaction by presentation of conclusive, documented evidence:

(1) Site control. Applicants shall provide evidence that the subject property is, and will remain, within the control of the applicant from the time of application submission.

(2) Local approvals. Applicants shall provide evidence that at the time of application filing all land use and zoning approvals necessary to develop the proposed project have been obtained. The Committee may require in support of the evidence, a Committee provided form letter from an appropriate local government planning official of the applicable local jurisdiction certifying that all approvals are in place.

(3) Economic Feasibility. Applicants shall demonstrate, on a Committee approved format, a financing plan demonstrating the proposed proj-

ect's economic feasibility as a qualified farmworker housing project. The information provided shall demonstrate that the proposed financing, including tax Credit, is sufficient to complete the project, adequate to operate the project for the term of the compliance period and the proposed ownership has the financial capacity to ensure the completion and operation of the project for the term of the compliance period. The feasibility analysis shall also utilize the underwriting criteria specified in Section 11004.

(A) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for a minimum fifty percent (50%) of the construction financing or fifty percent (50%) of the permanent financing for the proposed project's estimated total construction or total permanent financing requirements. The commitments shall be in writing and from a lender other than a mortgage broker, the applicant, or an identity of interest of the applicant. Permanent financing must have a term of at least 15 years. If a variable or adjustable interest rate permanent loan is proposed, the applicant shall demonstrate feasibility at the maximum prescribed interest ceiling rate for the same period.

(B) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies are "committed" at the time of application.

(1) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, and express authorization from an official expressly authorized to act on the commitment of funds.

(2) If applicable, substantiating evidence of the value of local fee waivers or land write downs may be required.

(C) Bank or Financial institutions requesting credit shall provide the following:

(1) Request for an allocation of Credit.

(2) An enforceable financing commitment of funds for the subject project detailing the terms and conditions of the loan commitment.

(a) Any financing commitment with a term of less than 15 years from the application filing deadline or loans funded prior to January 1, 1997 are excluded and ineligible.

(b) Applications shall be made prior to funding of the loan.

(3) The stated market rate of interest for loans being offered to similar projects as of the closing date of the application filing period.

(4) The stated rate of interest charged the subject project including the estimated amount, term and usage.

(5) The amount of credit requested.

(a) The credit requested shall be based upon the interest earned on that portion of the principal amount of the loan which was used to fund Eligible Costs that were actually paid or incurred.

(b) The credit shall apply only to interest income earned in accordance with (a) above and shall not include any loan fees or charges by the bank or financial institution.

(6) Amortization schedules showing the projected interest earned on the Eligible Costs at both the market rate and the below market rate shown in the commitment.

(D) Credit can only be applied for during an application cycle. If the bank or financial institution is not requesting Credit for the loan being provided to a proposed project, the applicant shall provide a waiver from all lenders at the time of application.

(1) All lenders listed in the application, if not requesting Credit, shall execute and acknowledge that no Credit is being requested and that Credit will not be requested subsequent to any qualified expenditure made by the owner of the proposed project.

(4) Sponsor characteristics. Applicants shall provide evidence that project participants possess sufficient expertise and financial capacity to develop, own, operate and sustain the proposed project for the compliance period. The Committee shall determine if any of the evidence provided shall disqualify any or all of the participants or the applicant. The following minimum documentation is required:

(A) Current year-to-date financial statement(s) and the prior three fiscal/calendar year financial statements and IRS tax returns for the general partner(s), principal owner(s), and developer(s);

(5) Minimum construction standards. Applicants shall provide a statement certifying their intent to meet all building and compliance requirements as more fully described in Health and Safety Code Section 18900, (for single or multi-family housing), the Health and Safety Code 19960 (for factory-built housing), Health and Safety Code 18000 (for mobile homes), or Health and Safety Code 17000, (for employee housing), as applicable. Additionally, the statement of certification shall itemize the minimum specifications of those codes to be incorporated into the project design.

(A) If local building codes are more restrictive than those regulations shall prevail.

(B) The applicant shall provide a certification from the appropriate local agency, from a certified architect, or from the appropriate state agency that the proposed housing meets the minimum standards as specified in the appropriate codes.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Sections 50199.52, 50199.53 and 50199.55, Health and Safety Code; and Sections 17053.14(e), (f), (h) and (i), 23608.2(b), (e), (f) and (h) and 23608.3(b), (e), (f) and (h), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11004. Financial Feasibility and Determination of Credit Amounts.

(a) General. The proposed project shall demonstrate that it is economically feasible as a qualified farmworker housing project and the applicant shall demonstrate the financial capacity to sustain the operation and maintenance of the proposed project or ensure the development, operation and maintenance from development through the term of the compliance period. Approved sources of funds shall be sufficient to cover approved uses of funds during the construction or rehabilitation and the project shall exhibit positive cash flow after debt service for a 30-year minimum term.

(1) If the Committee determines that the proposed sources of funds are insufficient to complete and sustain the project, an application shall be deemed as not meeting threshold requirements and shall be considered incomplete.

(2) At reservation and upon project completion, the Committee shall conduct economic feasibility determinations which may result in a reduction of the amount of Credit for which the proposed project is eligible or may rescind a Credit.

(3) If the maximum amount of Credit achievable is insufficient for economic feasibility, the Committee may deny or rescind a reservation or allocation of Credit.

(b) Limitation on determination. A Committee determination of economic feasibility in no way warrants to any applicant, investor, lender or others that the proposed project is, in fact, feasible.

(c) Reasonable cost determination. The Credit amount allocated to a project shall not exceed the amount necessary to construct or rehabilitate farmworker housing and provide for general improvement costs necessary and directly related to the project including compliance with laws governing access for persons with handicaps, building and permit fees, and costs relating to reducing utility expenses. The following standards shall apply:

(1) Builder overhead, profit and general requirements. An overall cost limitation of fourteen percent (14%) shall apply to builder overhead, profit and general requirements.

(2) Development Fees. Development Fees shall not exceed seven percent (7%) of the Eligible Costs prior to the inclusion of the developer fee. When the developer fee is established at application, the fee cannot be in-

creased. Should the Eligible Costs decrease however, the Developer fee will be reduced commensurably.

(3) Syndication expenses. If applicable, syndication expenses, excluding bridge loan costs, shall not exceed twenty percent (20%) of the gross syndication proceeds if the sale of Credit is through a public offering or private Regulation D offering and shall not exceed ten percent (10%) of the gross syndication proceeds if the sale is through a private offering.

(4) Reasonable Costs. Development and operational costs shall be reasonable and may be adjusted by the Committee at any time prior to issuance of tax forms.

(5) Reserve Accounts. All unexpended funds in project reserve accounts shall remain with the project and shall be used for the benefit of the farmworker project or residents except for amounts designated for deferred developer fees which may be released when available.

(6) Applicant resources. The applicant or owner shall demonstrate, to the Committee's satisfaction, that sufficient financial resources are available and committed solely to ensure project completion and operation of the project for the term of the compliance period.

(A) An audited certification from a qualified accountant shall be provided at the time of application demonstrating that the applicant has sufficient unencumbered funds to successfully complete the project and sustain the annual operating expenses of the project.

(d) Determination of Eligible Costs. The applicant shall provide the Committee with the amount of expenditures deemed qualified for Credit. The Eligible Costs shall be submitted to the Committee, on a Committee provided form. A qualified accountant shall provide a cost certification as to the Eligible Costs which the Committee shall verify. However, the Committee retains the right to disallow any expenditure it determines ineligible or inappropriate.

(e) Determination of Credit amount. The Committee shall determine the maximum allowable Credit which shall not exceed the lesser of the amount necessary for economic feasibility or fifty percent of the Eligible Costs. The Committee retains the right to disallow any expenditure it determines ineligible or inappropriate.

(f) Determination of economic feasibility. Based upon the evidence submitted by the applicant, the Committee shall determine if the applicant has sufficient expertise and financial capacity to complete or ensure the completion of the proposed project and the ability to sustain, operate and maintain or ensure the operation and maintenance of the proposed project for the term of the compliance period; and, that the proposed project operating budget demonstrates the adequacy to operate the project for the term of the compliance period.

(g) Underwriting. The following criteria shall be employed by the Committee to assist in determining economic feasibility:

(1) Minimum operating expenses per unit per year shall be the greater of the amounts from the initial operating expense budget proposed by the applicant or the following operating expense minimums.

<i>Project Size</i>	<i>SRO/Dorm</i>		<i>Family</i>
5 or less beds	\$3,000	5 or less Units	\$2,100
5 to 10 beds	\$3,000	5 to 10 Units	\$2,000
More than 10 beds	\$2,900	More than 10 Units	\$1,900

(2) For family housing projects, replacement reserve minimums shall be the higher of two hundred dollars (\$200) per unit per year, or an annual amount of six-tenths percent (.06%) of hard construction cost for new construction applications; or, six-tenths percent (.06%) of the Eligible Costs, excluding developer fees, for rehabilitation projects.

(3) Out-year calculations shall be a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (not including taxes and replacement reserves).

(4) Property tax expense minimums shall be one percent (1%) of total replacement cost, unless:

(A) the verified tax rate is higher or lower; or,

(B) the proposed sponsorship of the applicant includes an identified 501 (c)(3) corporate general partner with, or pursuing, a property tax exemption.

(5) Vacancy and collection loss assumptions shall be five percent (5%) of the gross potential income of the farmworker housing project.

(6) Loan terms shall include interest rate, term, and debt service coverage.

(7) Variable interest rate permanent loans shall be considered at the ceiling interest rate.

NOTE: Authority cited: Sections 50199.51 and 50199.56, Health and Safety Code. Reference: Sections 50199.52 and 50199.55, Health and Safety Code; and Sections 17053.14(b), (d), (e) (f) and (h), 23608.2(b), (d), (e), (f) and (h) and 23608.3(d), (e) and (f), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11005. Conditions on Credit Reservations.

(a) General. All reservations of Credit shall be conditioned at a minimum of, but not limited to, the following:

(1) Timely project completion;

(2) Receipt of amounts of Credit no greater than necessary for economic feasibility and viability as a qualified farmworker housing project throughout the compliance period;

(3) Continued use as a farmworker housing project for a period of 30 years.

(4) Executed and recorded Regulatory Agreement.

(b) Reservation. Reservation of Credit shall be subject to conditions as described in this subsection and Sections 11004, 11006 and 11007.

(1) Reservation of Credit shall be conditioned upon the Committee's receipt of an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant.

(2) Should the 20-day period for returning the executed reservation letter continue past December 31 of any year, an applicant may be required to execute and return the reservation letter in less than twenty (20) days in order for the reservation to be effective.

(3) Failure to comply with any shortened period shall invalidate the reservation offer and permit the Committee to offer a reservation to the next eligible project.

(c) Allocation. To receive the form evidencing an allocation of Credit the applicant must provide the following documentation upon project completion:

(1) The applicant shall submit documentation required by the Reservation Letter, a Farmworker Housing Assistance Program Regulatory Agreement and remit by cashier's check the compliance monitoring fee when requesting the Allocation.

(2) The Committee shall review the documentation to determine if all conditions have been satisfied.

(A) Substantive changes to the approved original application, in particular, changes to the financing plan, proposed lenders or costs, shall be explained in detail and may require the Committee to request and review additional information; may cause the project to be completely reconsidered by the Committee; may cause a reduction in the Eligible Costs; or, may cause a rescission of the Credit reservation. In no case, however, will the Eligible Costs be increased over the amount established at the Reservation.

(3) A current title report showing title vested in the entity which received the reservation of Credit, or the assignee which has been approved by the Committee.

(4) Executed organizational documents, if applicable, between the applicant and investor(s);

(5) Certificates of Occupancy for each building in the project (or a Notice of Completion for rehabilitation projects). With new construction Credit, a Certificate of Occupancy showing the placed-in-service date

is required and for rehabilitation Credit, a Notice of Completion is required showing the placed-in-service date; and, a certified statement from the owner and contractor that all rehabilitation is complete;

(6) A cost certification, on a Committee provided form, prepared by a qualified accountant.

(7) Placed-in-service dates, shown separately for each building, on a Committee provided form. If the placed-in-service date(s) denoted are different from the date on the Certificate of Occupancy or Notice of Completion, a detailed explanation is required;

(8) Photographs of the completed building(s) both interior and exterior;

(9) If applicable, a certification from the syndicator of equity raised and syndication costs on a Committee provided format; or, if no syndication, a certification from a qualified accountant as to the amount of Credit available and the equity provided by the owner.

(10) A project ownership profile on a Committee provided form;

(11) A copy of any cost certification submitted to and approved by any other lender.

(12) A narrative description of the following:

(A) Identification of the prospective qualified farmworkers and families;

(B) The number of units or sleeping areas;

(C) The rent levels adjusted for family size;

(D) All other charges which will be charged to the farmworker;

(E) How the project is affordable for farmworkers and, if applicable, their families;

(F) Maintenance for the project; and,

(G) If applicable, a copy of the current operating permit issued pursuant to the Employee Housing Act;

(H) An executed regulatory agreement.

(13) If all conditions have been satisfied, tax form TCAC 3521B (7/97) shall be issued.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Section 50199.55, Health and Safety Code; and Sections 17053.14(c), (e) and (h), 23608.2(c), (d), (e) and (h) and 23608.3(c), (d), (e), (f) and (e), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11006. Appeals.

(a) Availability. An applicant may appeal a Committee staff determination of the application score or a determination of the Credit amount. No applicant may appeal the Committee staff evaluation of another applicant's application.

(b) Timing. The appeal shall be in writing and received by no later than seven (7) calendar days following the transmittal date of the Committee staff report. The appeal shall identify, specifically, the applicant's grounds for the appeal.

(c) Review. The review shall be based on the documentation submitted by the applicant when the application was filed. The Committee staff shall prepare a brief statement of findings as a result of the review. The statement will either uphold the original Committee staff report or will explain the modification(s) recommended. The statement will be made available to the applicant prior to the Committee meeting.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Section 50199.55(a) Health and Safety Code; and Sections 17053.14(c), (e) and (i), 23608.2(c), (e) and (i) and 23608.3(c) and (e).

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11007. Fees.

(a) Application fee. Every applicant shall be required to pay an application filing fee of \$1,000.00. The fee shall be by cashier's check made payable to the Committee and shall be submitted with the application. The fee is non refundable.

(b) Compliance monitoring fee. The Committee shall charge a non-refundable fee of \$300 per unit; or, for dormitory style housing up to one-bedroom units, a \$50 per bed fee to cover the costs of compliance monitoring throughout the extended use period. Payment of the fee shall be made prior to the issuance of Credit.

(1) Assessment of a lesser fee and any alternative timing for the payment of the fee may be approved by the Committee. Financial hardship as a basis for reduction or waiver of fees is not allowable.

(2) Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required; but, an additional fee shall not be required prior to the end of the first 10 years of the compliance period.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Section 50199.55(a), Health and Safety Code; and Section 23608.2(i), Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

§ 11008. Compliance.

(a) Regulatory Agreement. All recipients of Credit under this program shall execute a Regulatory Agreement as a condition precedent to the Committee's making an allocation of Credit. Banks and financial institutions are excluded from this requirement. The Regulatory Agreement shall include, but not be limited to, all of the following provisions:

(1) Establishment of the location and number of units or sleeping areas and their rents;

(2) Requirement of an annual report, including occupancy, income and maintenance information and, if applicable, a copy of the current operating permit issued pursuant to the Employee Housing Act;

(3) Requirements allowing and governing state approval of the assignment, transfer, and assumption of the housing to ensure that the requirements of the program are binding on successors;

(4) Agreement ensuring a term of use as a farmworker housing project at least equal to the compliance period;

(5) Requirement that the Regulatory Agreement be recorded in the official records of the county in which the qualified farmworker housing project is located;

(6) Enforcement of the Regulatory Agreement is by the Committee, by the city or county in which the farmworker housing is located and by the tenants as third-party beneficiaries;

(7) Method by which the affordable rents will be established and maintained;

(b) Responsibility of owner. All compliance requirements are the responsibility of the project owner.

(1) Any failure by the owner to respond to compliance reports and certification requirements will be considered an act of noncompliance and shall be reported to the FTB.

(2) If reasonable attempts by the Committee to obtain the information are unsuccessful the applicant will be notified of the rescission of Credit.

(c) Compliance monitoring procedure. Compliance is the sole responsibility of the owner of the building(s) for which the Credit is allowable. The Committee's obligation is to monitor projects for compliance of the program requirements. The Committee assumes no liability for any owner's noncompliance nor does it relieve the owner of responsibility to comply with the terms and conditions of this program. The Committee's compliance monitoring requirements are as follows:

(1) Annual Owner Report. Owners must submit an annual report providing information regarding occupancy, income, maintenance information, and any other information the Committee deems necessary to properly monitor a project.

(2) Tenant Verification. Owners must obtain evidence that all tenants are farmworkers through the receipt of third party verification. Such verification may include, but is not limited to, a letter from the tenant's employer, or tenant income tax information.

(3) Leases. Leases between the owner and the tenant shall be executed when rent is charged to the tenant. Leases shall conform with all federal, state and local laws.

(4) Record keeping. The owner of a project shall retain records for each year in the compliance period showing:

(A) the total number of residential rental units in the building including the number of bedrooms, and unit size in square feet;

(B) the rent charged for each unit;

(C) the number of household members in each unit;

(D) notation of any vacant units;

(E) move-in, move-out dates for all units;

(F) how the affordable rents are established and charged.

(5) Record Retention. For each year of the compliance period, owners and the Committee are required to retain records of the information described.

(A) Owners shall retain documents for at least six years from the due date (with extensions) for filing the and state income tax return beginning with the first qualified year.

(B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective TCAC Form 3521B.

(C) Should the Committee request copies of tenant records, it shall retain them for three years from the end of the last calendar year in which it receives them.

(1) should the Committee review tenant files at the subject project, it shall retain the review notes and any other pertinent information for the same three-year period.

(D) The Committee shall retain all other project documentation for the same three-year period.

(6) Certification requirements. Under penalty of perjury, a project owner is required to certify annually that the project meets the following

certification requirements.

(A) All terms and conditions recorded in the Regulatory Agreement.

(B) No change in ownership has occurred during the reporting period;

(C) The project has *not* been notified by the FTB that it is no longer a "qualified" farmworker housing project

(D) The project meets all standards for providing safe, sanitary and decent housing.

(7) Status report, file and site inspection. The Committee, or its designee, shall routinely inspect and review the project record keeping and site. The annual reviews shall be established by the Committee and shall be at the sole discretion of the Committee. Advance notice shall not be given of the Committee's inspection.

(A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner at the time of the inspection.

(B) The project shall be subject to a visual inspection of the project's outward physical appearance. Unit inspections shall not be performed unless deferred maintenance of the exterior project area suggests that units may not be fit for occupancy. Owners shall be notified of the inspection results.

(8) The Committee shall perform and complete its status report and inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on the review findings may alter the extent of the review. In addition, the Committee may rely on reports or site visits prepared by lenders or other governmental agencies, lenders or investors.

NOTE: Authority cited: Section 50199.56, Health and Safety Code. Reference: Sections 50199.52(a)(2) and 50199.53 Health and Safety Code; and Sections 17053.14(h)(2) and (I) and 23608.2 (h)(2) and (I) Revenue and Taxation Code.

HISTORY

1. New section filed 9-29-98; operative 9-29-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 40).

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Division 18. California Gambling Control Commission

Chapter 1. General Provisions

§ 12002. General Definitions.

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), shall govern the construction of this division. As used in this division:

(a) "BCII" means the Bureau of Criminal Identification and Information in the California Department of Justice.

(b) "Bureau" means the Bureau of Gambling Control in the California Department of Justice. For the filing of any information, reports or forms, Bureau refers to the Sacramento office of the Bureau of Gambling Control.

(c) "California Games" means controlled games that feature a rotating player-dealer position, as described in Penal Code section 330.11.

(d) "Commission" means the California Gambling Control Commission.

(e) "Conviction" means a plea or verdict of guilty or a plea of *nolo contendere*, irrespective of a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13. Any plea entered pursuant to Penal Code section 1000.1 does not constitute a conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.

(f) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Penal Code section 12020.

(g) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816.

(h) "Gambling Control Act" or "Act" means Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code.

(i) "Registrant" means a person having a valid registration issued by the Commission.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3) and 19854, Business and Professions Code. Reference: Sections 7.5, 19800, 19805, 19811, 19816 and 19951, Business and Professions Code.

HISTORY

1. New division 18 (chapter 1), chapter 1 (articles 1-3), article 1 (sections 12000-12099 — Reserved) filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New division 18 (chapter 1), chapter 1 (articles 1-3), article 1 (sections 12000-12099 — Reserved) refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New division 18 (chapter 1), chapter 1 (articles 1-3), article 1 (sections 12000-12099 — Reserved) refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction adding HISTORIES 2 and 3 (Register 2002, No. 50).
5. Certificate of Compliance as to 7-1-2002 order, including amendment of chapter 1 heading and repealer of article 1 heading, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
6. Amendment of chapter heading and new section filed 1-25-2006; operative 2-24-2006 (Register 2006, No. 4).
7. Change without regulatory effect amending subsection (a) filed 12-26-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).
8. Change without regulatory effect adding subsection (b), repealing subsection (f) and relettering subsections filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12004. Change of Address.

A registrant or licensee shall report to the Commission any change of address within ten days of such change on a form entitled "Notice of Address Change" CGCC-032 (New 06-05), which is attached in Appendix A to this Chapter.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19853(a)(3), 19864 and 19984, Business and Professions Code. Reference: Sections 19850 and 19852, Business and Professions Code.

HISTORY

1. New section filed 1-25-2006; operative 2-24-2006 (Register 2006, No. 4).

Appendix A



State of California
California Gambling Control Commission
CGCC – 032 (New 06-05)

Commission Use Only

Date to DGC: _____

NOTICE OF ADDRESS CHANGE**SECTION 1: INFORMATION**

Full Legal Name: _____

Gambling Establishment Affiliation, if any: _____

Type of License / Registration (or Designated Agent): _____

SECTION 2: CHANGE OF BUSINESS ADDRESS

Previous Business Address: _____

Street

City

State

Zip Code

New Business Address: _____

Street

City

State

Zip Code

SECTION 3: CHANGE OF MAILING ADDRESS, IF DIFFERENT FROM BUSINESS ADDRESS

Previous Mailing Address: _____

Street

City

State

Zip Code

New Mailing Address: _____

Street

City

State

Zip Code

SECTION 4: CHANGE OF PHONE NUMBER OR E-MAIL ADDRESS

Previous Phone Number: _____

()

Previous E-mail Address (Optional): _____

New Phone Number: _____

()

New E-mail Address (Optional): _____

SECTION 5: DECLARATION

I specifically request that all notices and written communications be sent to the new address listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing information, and all information submitted with this form is true, correct, and complete.

Signature: _____

Printed Name and Title: _____

Date: _____

NOTICE OF ADDRESS CHANGE INSTRUCTIONS

Type or print (in ink) all information requested on this form.

Retain a photocopy of the completed form for your permanent records.

A separate form is required for each registered/licensed person/entity.

If the form is returned at any point in the processing, please follow the enclosed directions and resubmit it in a timely manner.

You are responsible for providing the appropriate information. If a question is not applicable, indicate with "N/A."

You must initial and date any corrections, changes, or other alterations.

Any individual or entity who holds a State Gambling License (including Key Employee License), Registration, or a CGCC-issued Work Permit is required to submit a Notice of Address Change Form within TEN days of such change.

SECTION 1: INFORMATION

Provide your full legal name and list all other names if applicable. State your Gambling Establishment Affiliation (i.e. Name of Gambling Establishment), if any, as well as the type of license/registration that you hold (i.e. Owner, Key Employee, Work Permit). If you are the Designated Agent, please state.

SECTION 2: CHANGE OF BUSINESS ADDRESS

and

SECTION 3: CHANGE OF ADDRESS

You must provide your complete previous address and new address.

Even if only part of the address is changing, you must fill in all the blanks.

SECTION 3: CHANGE OF PHONE NUMBER OR E-MAIL ADDRESS

You must provide your complete previous phone number and new phone number. Providing an e-mail address is optional.

SECTION 4: DECLARATION

Sign and date the form under penalty of perjury. A form must be signed and dated to be considered complete.

HISTORY

1. New appendix A filed 1-25-2006; operative 2-24-2006 (Register 2006, No. 4).

Chapter 2. Work Permits

Article 1. Definitions and General Provisions

§ 12100. Definitions.

In addition to section 12002, the following definitions govern the construction of the regulations contained in this Chapter:

(a) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816(a), or his or her designee. If the Executive Director position is vacant, then "Executive Director" means the officer or employee who shall be designated by the Commission.

(b) "Gambling Enterprise Employee" has the same meaning as defined in Business and Professions Code section 19805, subdivision (m).

(c) "Gambling Establishment" or "Establishment" has the same meaning as defined in Business and Professions Code section 19805, subdivision (n).

(d) "Regular Work Permit" or "Work Permit" means a work permit issued pursuant to Business and Professions Code section 19912 for a period of no more than two years.

(e) "Temporary Work Permit" means a work permit issued pursuant to this article to a prospective gambling enterprise employee in accordance with Business and Professions Code section 19824, subdivision (f), valid for a period not to exceed 120 days from the date of issuance.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19800, 19811, 19816 and 19912, Business and Professions Code.

HISTORY

1. New article 2 (sections 12100-12110) and section filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 12100-12110) and section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.

3. New article 2 (sections 12100–12110) and section refiled 7–1–2002 as an emergency; operative 7–1–2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–1–2002 order, including repealer of former article 2 heading, new chapter 2 and article 1 headings and amendment of section, transmitted to OAL 10–29–2002 and filed 12–12–2002 (Register 2002, No. 50).
5. Change without regulatory effect amending subsections (e) and (h)–(j) and amending NOTE filed 6–26–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
6. Amendment of first paragraph, repealer of subsections (a)–(d) and (f) and subsection relettering filed 1–25–2006; operative 2–24–2006 (Register 2006, No. 4).
7. Change without regulatory effect amending subsections (b) and (c) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12101. Forms.

The following forms shall be used as specified in this chapter:

(a) “Renewal Work Permit Application Form” means the “Application for Work Permit Renewal” CGCC–023 (Rev. 04/08) which is hereby incorporated by reference.

(b) “Replacement Badge Application” means the “Application for Replacement Work Permit Badge” CGCC–026 (Rev. 04/08) which is hereby incorporated by reference.

(c) “Transfer of Work Permit Application Form” means the “Application for Transfer of Work Permit” CGCC–022 (Rev. 04/08) which is hereby incorporated by reference.

(d) “Work Permit Application Form” means the “Application for Initial Regular Work Permit/Temporary Work Permit” CGCC–021 (Rev. 04/08) which is hereby incorporated by reference.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19800, 19811, 19816 and 19912, Business and Professions Code.

HISTORY

1. New section filed 12–12–2002; operative 12–12–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 50).
2. Amendment of subsections (a) and (d) filed 8–18–2003 as an emergency; operative 8–18–2003 (Register 2003, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–16–2003 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction implementing amendments to NOTE filed 6–26–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 49).
4. Amendment of subsections (a) and (d), including further amendments, refiled 12–15–2003 as an emergency; operative 12–15–2003 (Register 2003, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–13–2004 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a) and (d) refiled 4–8–2004 as an emergency; operative 4–13–2004 (Register 2004, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–11–2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–8–2004 order transmitted to OAL 8–9–2004 and filed 9–20–2004 (Register 2004, No. 39).
7. Change without regulatory effect amending section filed 1–30–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
8. Change without regulatory effect amending section filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12102. Temporary Work Permits.

NOTE: Authority cited: Sections 19810A, 19822A, 19823A, 19830A(a), 19834A and 19910.5A, Business and Professions Code. Reference: Sections 10, 19801(j), 19810A, 19815, 19854A, 19910 and 19910.5A, Business and Professions Code.

HISTORY

1. New section filed 11–19–2001 as an emergency; operative 11–19–2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–19–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–19–2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–17–2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–1–2002 as an emergency; operative 7–1–2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 7–1–2002 order, including renumbering of former section 12102 to section 12120, transmitted to OAL 10–29–2002 and filed 12–12–2002 (Register 2002, No. 50).

Article 2. Regular Work Permits

§ 12104. Term of Work Permit.

As provided in Business and Professions Code section 19912, a work permit issued by the Commission is valid for two years. If a temporary work permit is issued, the term of the subsequently issued regular work permit shall run from the date of the issuance of the temporary work permit.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19800, 19811, 19816 and 19912, Business and Professions Code.

HISTORY

1. New section filed 11–19–2001 as an emergency; operative 11–19–2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–19–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–19–2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–17–2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7–1–2002 as an emergency; operative 7–1–2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–1–2002 order, including new article 2 heading, renumbering of former section 12104 to section 12122 and new section 12104, transmitted to OAL 10–29–2002 and filed 12–12–2002 (Register 2002, No. 50).
5. Editorial correction implementing amendments to section and NOTE filed 6–26–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 49).

§ 12105. Mandatory and Discretionary Grounds for Denial of Work Permit.

(a) An application for a work permit shall be denied by the Commission if either of the following applies:

(1) The applicant meets any of the criteria for mandatory disqualification under Business and Professions Code section 19859.

(2) The applicant is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of Business and Professions Code section 19857.

(b) An application for a work permit may be denied by the Commission if it finds any of the following:

(1) Cause set forth in Business and Professions Code section 19914, subdivision (a), paragraphs (1) through (9), inclusive.

(2) Within ten years immediately preceding the submission of the application, the applicant was convicted of any of the following offenses:

(A) A misdemeanor involving a firearm or other deadly weapon.

(B) A misdemeanor involving gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code.

(C) A misdemeanor involving a violation of an ordinance of any city, county, or city and county, which pertains to gambling or gambling-related activities.

(D) A misdemeanor involving a violation of the Gambling Control Act.

(E) A misdemeanor involving dishonesty or moral turpitude whether or not the applicant was granted relief pursuant to Sections 1203.4, 1203.4a, or 1203.45 of the Penal Code.

(c) The grounds for denial set forth in this section apply in addition to any grounds prescribed by statute.

(d) The criteria set forth in this section shall constitute grounds for objection to the issuance of a work permit by a city, county, or city and county pursuant to Business and Professions Code section 19912.

(e) The provisions of Business and Professions Code sections 19857, 19859, and 19914, subdivision (a) shall be deemed incorporated by reference into this regulation for the purposes set forth in this section. For the

purposes of this section, the criteria incorporated by reference in these regulations from Business and Professions Code section 19914, subdivision (a), apply to conduct or events occurring prior to the filing of an application for a work permit.

NOTE: Authority cited: Sections 19811, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 19800, 19811, 19816, 19857, 19859, 19911, 19912 and 19914(b), Business and Professions Code.

HISTORY

1. New section filed 12-12-2002; operative 12-12-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).

§ 12106. Effect of Denial or Cancellation of Temporary Work Permit.

NOTE: Authority cited: Sections 19810A(a), 19822A, 19823A, 19830A(a) and 19834A, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 19823A, 19910 and 19910.5A, Business and Professions Code.

HISTORY

1. New section filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-1-2002 order, including renumbering of former section 12106 to section 12124, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).

§ 12108. Processing Times for Temporary Work Permit.

NOTE: Authority cited: Sections 19810A, 19822A, 19823A, 19830A(a) and 19834A, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 15375 and 15376, Government Code; and Sections 19823A(6) and 19910.5A, Business and Professions Code.

HISTORY

1. New section filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-1-2002 order, including renumbering of former section 12108 to section 12126, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).

§ 12110. Cancellation of Temporary Work Permit.

NOTE: Authority cited: Sections 19810A(a), 19822A, 19823A, 19830A(a) and 19834A, Business and Professions Code. Reference: Sections 10, 19801, 19815, 19823A(6), 19910.5A(a) and (d), Business and Professions Code.

HISTORY

1. New section filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-1-2002 order, including renumbering of former section 12110 to section 12128, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).

Article 3. Temporary Work Permits

§ 12120. Temporary Work Permits.

(a) While the Bureau is processing an application for a regular work permit, and subject to Section 12122, the Executive Director, or any employee of the Commission designated in writing by the Executive Director, may issue a temporary work permit pursuant to this article, which shall be valid for no more than 120 days. The duration of the temporary work permit shall not substantially exceed the estimated time to process and consider the application for a regular work permit, but may be extended if necessary; provided that in no event shall a temporary work permit be valid for more than 120 days. Any temporary work permit issued in accordance with this article shall not create a property right in its holder. In order to protect the public, each temporary work permit shall be issued subject to the conditions specified in Section 12128.

(b) Upon issuance or denial of a regular work permit by the Commission, the temporary work permit previously issued shall become void and shall not be used thereafter.

(c) If the regular work permit is not issued within 120 days of the issuance of the temporary work permit, the applicant may submit an application for a new temporary work permit to the Commission. The Executive Director shall waive the fee for the new temporary work permit upon request of the applicant.

(d) In the event that the regular work permit is issued prior to action by the Executive Director on the application for the temporary work permit, the application for the temporary work permit shall be deemed withdrawn and no further action will be taken on it.

(e) If an application for a temporary work permit is incomplete, the Executive Director may request in writing any information needed in order to complete the application. The Executive Director shall allow the applicant 30 days in which to furnish the information. If the applicant fails to respond to the request, the temporary work permit application shall be deemed abandoned and no further action will be taken on it.

(f) If the applicant submits a request for withdrawal of his or her application for a regular work permit, the application for a temporary work permit shall be deemed abandoned and no further action will be taken on it by the Executive Director.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19801(j), 19811, 19816, 19866, 19910 and 19912, Business and Professions Code.

HISTORY

1. New article 3 (section 12120) and section filed 11-19-2001 as an emergency; operative 11-19-2001 (Register 2001, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-19-2002 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (section 12120) and section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New article 3 (section 12120) and section refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-1-2002 order, including repealer and new article 3 heading, renumbering of former section 12120 to new section 12130 and renumbering and amendment of former section 12102 to section 12120, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
5. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
6. Change without regulatory effect amending subsection (a) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12122. Criteria for the Issuance of Temporary Work Permits.

The Executive Director shall issue a temporary work permit if all of the following requirements are met:

(a) The applicant has applied for a temporary work permit by completing the Commission's work permit application form, requesting issuance

of a temporary work permit by checking the appropriate box on the application form, and submitting with the application a nonrefundable \$25.00 temporary work permit fee, in addition to the regular work permit fee of \$250.00 paid pursuant to Business and Professions Code section 19915.

(b) The applicant has supplied all of the following to the Commission:

(1) The applicant's name, mailing address, residence street address (if different than mailing address), telephone number, e-mail address (optional), and date of birth.

(2) A two by two inch color passport-style photograph taken no more than 30 days before submission to the Commission of the work permit application, which shall be in addition to the photograph submitted for the regular work permit.

(3) Information concerning the gambling establishment in which the position is available: the name of the gambling establishment, mailing address, voice telephone number, facsimile number (if any), e-mail address (if any), the job title of the position, and the name of the owner, authorized agent, or hiring authority of the establishment.

(4) A Request for Live Scan Service (California Department of Justice Form BCII 8016, rev. 4/01,) confirming that the applicant has submitted his or her fingerprints to the BCII for an automated background check and response.

(c) Neither the application in its entirety nor the results of the investigation of the applicant reported by the Bureau to the Commission up until the date of issuance of the temporary work permit discloses any of the following:

(1) The applicant has been convicted of any felony.

(2) The applicant has, within the 10-year period immediately preceding the submission of the application, been convicted of any of the following offenses, not including convictions which have been expunged or dismissed as provided by law:

(A) A misdemeanor involving a firearm or other deadly weapon.

(B) A misdemeanor involving gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code.

(C) A misdemeanor involving a violation of an ordinance of any city, county, or city and county, which pertains to gambling or gambling-related activities.

(D) A misdemeanor involving violations of the Act.

(E) A misdemeanor involving dishonesty or moral turpitude.

(3) The applicant has had an application for a gambling license or work permit denied.

(4) The applicant has had a gambling license or work permit revoked.

(5) The applicant is disqualified under the Act or other provisions of law from holding a work permit.

(d) The Bureau has reported one of the following to the Commission concerning the Request for Live Scan Service submitted to the BCII:

(1) A response has been received from the BCII or Federal authorities that is consistent with a finding that the applicant has not sustained any disqualifying criminal convictions, or,

(2) No response from the BCII or Federal authorities has been received within the time period set forth in subsection (b) of Section 12126.

(e) The application and other information obtained during the review does not disclose any factor indicating that approval of the temporary work permit may in the judgment of the Executive Director present a danger to the public or to the reputation of controlled gambling in this state.

(f) The applicant is not ineligible under Business and Professions Code section 19859, subdivision (b), (e), (f), or (g), the terms of which are incorporated by reference and hereby expressly made applicable to applications for temporary work permits.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 19811, 19816, 19823, 19859 and 19912, Business and Professions Code.

HISTORY

1. Certificate of Compliance as to 7-1-2002 order, including renumbering and amendment of former section 12104 to section 12122, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
3. Amendment of section heading and subsection (a) filed 8-18-2003 as an emergency; operative 8-18-2003 (Register 2003, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-16-2003 or emergency language will be repealed by operation of law on the following day.
4. Amendment of section heading and subsection (a) refilled 12-15-2003 as an emergency; operative 12-15-2003 (Register 2003, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-13-2004 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading and subsection (a) refilled 4-8-2004 as an emergency; operative 4-13-2004 (Register 2004, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-11-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-8-2004 order transmitted to OAL 8-9-2004 and filed 9-20-2004 (Register 2004, No. 39).
7. Change without regulatory effect amending subsections (b)(4) and (d)-(d)(2) filed 12-26-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).
8. Change without regulatory effect amending subsections (c), (c)(2)(D), (c)(5), (d) and (d)(2) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12124. Effect of Denial or Cancellation of Temporary Work Permit.

Denial of an application for a temporary work permit or cancellation of a temporary work permit shall not suspend the processing and review of the related application for a regular work permit.

NOTE: Authority cited: Sections 19811(a), 19823, 19824, 19840 and 19841, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 19824, 19910 and 19912, Business and Professions Code.

HISTORY

1. Certificate of Compliance as to 7-1-2002 order, including renumbering of former section 12106 to section 12124, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
2. Change without regulatory effect amending NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).

§ 12126. Processing Times for Temporary Work Permit.

Applications for issuance of a temporary work permit by the Executive Director shall be processed within the following time frames:

(a) The maximum time within which the Executive Director shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for filing, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is five working days after receipt of the application.

(b) A temporary work permit shall be either granted or denied within no more than 15 working days after the filing of a complete application.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 15375 and 15376, Government Code; and Sections 19824(f) and 19912, Business and Professions Code.

HISTORY

1. Certificate of Compliance as to 7-1-2002 order, including renumbering of former section 12108 to section 12126, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).

§ 12128. Cancellation of Temporary Work Permit.

(a) Any temporary work permit issued in accordance with this article shall be subject to summary cancellation pursuant to subsections (b) and (c) of this section.

(b) A temporary work permit shall be cancelled by the Executive Director at any time if any of the following applies:

(1) The Commission determines that it has received reliable information that the holder of the temporary work permit is ineligible under subsection (c) of Section 12122, has failed to reveal any fact material to the holder's qualification for a temporary work permit, or has supplied information to the Commission that is untrue or misleading as to a material fact pertaining to the criteria for issuance of temporary work permits.

(2) Pursuant to Business and Professions Code section 19826, the Bureau recommends denial of a regular work permit to the applicant.

(3) The applicant's regular work permit application is referred by a vote of the Commission for an evidentiary hearing pursuant to Business and Professions Code section 19825, and the Commission directs the Executive Director to cancel the temporary work permit.

(4) The Executive Director receives from the applicant a request to withdraw his or her application for a regular work permit.

(c) If any of the circumstances set forth in subsection (b) applies, then the Executive Director or his or her designee shall immediately do all of the following:

(1) Notify the temporary work permit holder, the gambling establishment, the local law enforcement agency, and the Bureau in writing of the cancellation of the temporary work permit and the grounds thereof.

(2) Require the holder of the license for the gambling establishment or its hiring authority to terminate immediately any employment of the holder covered by the cancelled temporary work permit.

(3) Notify the temporary work permit holder that he or she is required to surrender the temporary work permit to the Commission not more than ten days following the date that the notice of cancellation was mailed or such greater time as is authorized by the Executive Director.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 10, 19801, 19816, 19824(f) and 19912(a) and (d), Business and Professions Code.

HISTORY

1. Certificate of Compliance as to 7-1-2002 order, including renumbering and amendment of former section 12110 to section 12128, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
3. Change without regulatory effect amending subsections (b)(1)-(2) and (c)(1) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 4. Change in Place of Employment — Work Permit Transfer

§ 12130. Change in Place of Employment—Work Permit Transfer.

(a) The holder of a currently valid regular work permit may apply for a new work permit for a different place of employment in accordance with this article.

(b) The Executive Director shall issue a regular work permit to an applicant for a new place of employment if all of the following conditions are met:

(1) The applicant has applied for a work permit transfer by completing the Commission's transfer of work permit application form.

(2) The applicant has supplied all of the following to the Commission:

(A) The applicant's name, mailing address, residence street address (if different than mailing address), telephone number, e-mail address (optional), and date of birth.

(B) A two by two inch color passport-style photograph taken no more than 30 days before submission to the Commission of the work permit transfer request.

(C) A nonrefundable \$25.00 fee payable to the Commission.

(D) Information concerning the new employer in which the position is available: the name of the gambling establishment, mailing address, voice telephone number, facsimile number (if any), e-mail address (if

any), the job title of the position, and the name of the owner, authorized agent, or hiring authority of the establishment.

(3) The applicant possesses a valid work permit issued by the Commission or the Bureau that has been issued or renewed within a two-year period immediately preceding the date that the work permit transfer application is received by the Commission. The applicant shall provide the Commission with a photocopy of the valid work permit.

(4) The applicant seeks to change his or her place of employment from the gambling establishment for which the valid work permit was issued to a different licensed gambling establishment for which a work permit issued by the Commission is required by the Act.

(5) The Executive Director is not aware of any cause for revocation of the work permit.

(c) A work permit issued pursuant to this section shall be valid during the unexpired term of the previously issued work permit.

(d) If a work permit is issued pursuant to this section, the Executive Director shall promptly inform the Bureau in writing of this decision.

(e) Upon issuance of a regular work permit pursuant to this section for the applicant's new place of employment, the regular work permit issued for the previous employer shall become void and shall not be used thereafter.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19801, 19816, 19824(f) and 19912(d), Business and Professions Code.

HISTORY

1. New article 4 (section 12130) and section filed 11-29-2001 as an emergency; operative 11-29-2001 (Register 2001, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-29-2002 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (section 12130) and section refiled 3-19-2002 as an emergency; operative 3-19-2002 (Register 2002, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-17-2002 or emergency language will be repealed by operation of law on the following day.
3. New article 4 (section 12130) and section refiled 7-1-2002 as an emergency; operative 7-1-2002 (Register 2002, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-29-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-1-2002 order, including repealer and new article 4 heading, repealer of former section 12130 and renumbering and amendment of former section 12120 to new section 12130, transmitted to OAL 10-29-2002 and filed 12-12-2002 (Register 2002, No. 50).
5. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
6. Change without regulatory effect redesignating former subsections (b)(2)(i)-(iv) as subsections (b)(2)(A)-(D) and amending subsections (b)(3) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12132. Processing Times for Application to Change Place of Employment.

Applications submitted pursuant to section 12130 shall be processed within the following time frames:

(a) The maximum time within which the Executive Director shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for filing, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is five working days after receipt of the application.

(b) A work permit shall be either granted or denied within no more than 15 working days after the filing of a complete application.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 15375 and 15376, Government Code; and Sections 19824 and 19912, Business and Professions Code.

HISTORY

1. New section filed 12-12-2002; operative 12-12-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).

Article 5. Replacement Work Permit Badges

§ 12140. Replacement Work Permit Badges.

(a) The Executive Director shall issue a replacement work permit badge to a gambling enterprise employee if all of the following conditions are met:

(1) The applicant has previously been issued a currently valid work permit.

(2) The applicant has applied for a replacement work permit badge by completing the Commission's replacement badge application.

(3) The applicant has supplied all of the following to the Commission:

(A) The applicant's name, mailing address, residence street address (if different than mailing address), telephone number, e-mail address (optional), and date of birth.

(B) A two by two inch color passport-style photograph taken no more than 30 days before submission to the Commission of the work permit transfer request.

(C) A nonrefundable \$25.00 fee payable to the Commission.

(D) Information concerning the gambling establishment for which the replacement badge is requested: the name of the gambling establishment, mailing address, voice telephone number, facsimile number (if any), e-mail address (if any), the job title of the position, and the name of the owner, authorizing agent, or hiring authority of the establishment.

(4) The Executive Director is not aware of any cause for revocation of the work permit.

(b) A replacement work permit badge issued pursuant to this section shall be valid during the unexpired term of the previously issued work permit.

(c) Upon issuance of the replacement work permit badge, the previously issued work permit badge for that gambling establishment shall become void and shall not be used thereafter.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841 and 19912, Business and Professions Code. Reference: Sections 10, 19801, 19816, 19824(f) and 19912, Business and Professions Code.

HISTORY

1. New article 5 (sections 12140–12142) and section filed 12–12–2002; operative 12–12–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 50).
2. Change without regulatory effect amending section and NOTE filed 6–26–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
3. Change without regulatory effect redesignating former subsections (a)(3)(i)–(iv) as subsections (a)(3)(A)–(D) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12142. Processing Times for Application to Replace Work Permit Badge.

Applications submitted pursuant to section 12140 shall be processed within the following time frames:

(a) The maximum time within which the Executive Director shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for filing, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is five working days after receipt of the application.

(b) A replacement work permit badge shall be either issued or denied within no more than 15 working days after the filing of a complete application.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840 and 19841, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 15375 and 15376, Government Code; and Sections 19824 and 19912, Business and Professions Code.

HISTORY

1. New section filed 12–12–2002; operative 12–12–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 50).

2. Change without regulatory effect amending subsection (a) and NOTE filed 6–26–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).

Chapter 2.1. Third-Party Providers of Proposition Player Services: Registration; Licensing

Article 1. Definitions and General Provisions

§ 12200. Definitions.

(a) Except as otherwise provided in Section 12002 and in subsection (b) of this regulation, the definitions in Business and Professions Code section 19805 shall govern the construction of this chapter.

(b) As used in this chapter:

(1) "Additional Badge" means a badge issued by the Commission pursuant to Section 12200.6, which authorizes an individual registrant or licensee to be simultaneously employed by more than one primary owner.

(2) "Applicant" means an applicant for registration or licensing under this chapter, including in the case of an owner that is a corporation, partnership, or any other business entity, all persons whose registrations or licenses are required to be endorsed upon the primary owner's registration or license certificate.

(3) "Authorized player" means an individual associated with a particular primary owner whose badge authorizes play in a controlled game on behalf of the primary owner, including the primary owner, all other owners, all supervisors, and all players. Only authorized players may perform the functions of a supervisor or player.

(4) "Badge" means a form of identification issued by the Commission identifying a registrant or licensee.

(5) [Reserved]

(6) [Reserved]

(7) [Reserved]

(8) [Reserved]

(9) [Reserved]

(10) "Funding source" means any person that provides financing, including but not limited to loans, advances, any other form of credit, chips, or any other representation or thing of value, to an owner–registrant or owner–licensee, other than individual registrants under Subsection (d) of Section 12201 or individual licensees. "Funding source" does not include any federally or state chartered lending institution or any of the following entities that in the aggregate owns at least one hundred million dollars (\$100,000,000) of securities of issuers that are not affiliated with the entity:

(A) Any federally–regulated or state–regulated bank or savings association or other federally– or state–regulated lending institution.

(B) Any company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state.

(C) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. sec. 80a–1 et seq.).

(D) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees.

(E) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1001 et seq.).

(F) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.).

(G) Any entity, all of the equity owners of which individually meet the criteria of this paragraph (10).

(11) [Reserved]

(12) "License" means a license issued by the Commission pursuant to Article 3 of this chapter.

(A) There are four license categories entitling the holder to provide third-party proposition player services:

1. Primary owner,
2. Owner,
3. Supervisor, and
4. Player.

(B) All "other employees" (as defined in this section) of the primary owner who are present in the gambling establishment during the provision of proposition player services under the primary owner's proposition player contract shall be licensed as "other employee" and shall be required to submit an application and be approved or denied based upon the same criteria that apply to a player.

(C) A primary owner and an owner may also perform the functions of a supervisor or player, and the holder of a supervisor's license may also perform the functions of a player.

(D) No licensee, other than an owner, supervisor, or player, may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play in the performance of a proposition player contract.

(13) "Licensee" means a person having a valid license.

(14) "Organization chart" means a chart that identifies the names and titles of all owners, as defined in Section 12200, supervisors, and any persons having significant influence over the operation of the entity or provision of proposition player services; the percentage of ownership, if any, held by each identified individual or entity; the reporting relationship for each identified individual or entity; and the job title and number of persons in each of the job titles that report to each individual or entity identified on the organization chart.

(15) "Other employee" means an individual employed by a primary owner who is not authorized to provide proposition player services. "Other employee" does not include any owner, any supervisor, or any officer or director of a primary owner that is a corporation. An individual registered or licensed as an "other employee" may not function as a player unless and until that individual applies for and obtains registration or licensure as a player.

(16) "Owner" includes all of the following:

(A) A sole proprietor, corporation, partnership, or other business entity that provides or proposes to provide third party proposition player services as an independent contractor in a gambling establishment.

(B) Any individual specified in Business and Professions Code section 19852, subdivisions (a) through (h), and

(C) Any funding source.

(17) "Playing Book" means a record documenting each session of play by a third-party proposition player.

(18) "Primary Owner" means the owner specified in subparagraph (A) of paragraph (16) of this subsection.

(19) "Proposition player" or "player" means an individual other than an owner or a supervisor who provides third-party proposition player services in a controlled game.

(20) "Proposition player contract" or "contract" means a written contract, the terms of which have been reviewed and approved by the Bureau, between the holder of a state gambling license and a primary owner acting as an independent contractor for the provision of third-party proposition player services in the gambling establishment.

(21) "Rebate" means a partial return by an authorized proposition player of chips or money to a patron who has lost the chips or money to the authorized player through play in a controlled game at a gambling establishment.

(22) "Registrant" means a person having a valid registration.

(23) "Registration" means a registration issued by the Commission pursuant to this chapter.

(A) There are four registration categories entitling the holder to provide third-party proposition player services: primary owner, owner, supervisor, and player.

(B) All other employees of the primary owner who are present in the gambling establishment during the provision of proposition player services under the primary owner's proposition player contract shall be registered as "other employee" and shall be required to submit an application, which application shall be approved or denied based upon the same criteria that apply to a player.

(C) A primary owner and an owner may also perform the functions of a supervisor or player, and the holder of a supervisor's registration may also perform the functions of a player. No registrant, other than an owner, supervisor, or player, may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play in the performance of a proposition player contract.

(24) "Reinstatement Badge" means a badge issued by the Commission to a player, a supervisor, or an "other employee" pursuant to Section 12200.6 which authorizes an individual registrant or licensee who has ceased to be employed by a primary owner to return to work for that primary owner.

(25) "Session of play" as used in Section 12200.13 ("Playing Book") means a continuous workshift of third-party proposition player services provided by an individual proposition player.

(26) "Supervisor" means an individual who, in addition to any supervisory responsibilities, has authority, on behalf of the primary owner, to provide or direct the distribution of currency, chips, or other wagering instruments to players engaged in the provision of third-party proposition player services in a gambling establishment.

(27) "Supplemental information package" means all of the documentation and deposits required by each of the following forms (which are hereby incorporated by reference) to be submitted to the Commission in response to a summons issued by the Bureau pursuant to Section 12205.1:

(A) Owners, as defined in Section 12200, that are a natural person shall complete the form Level III Supplemental Information-Individual (BGC-APP-034A (Rev. 11/07)) for a level III investigation.

(B) Owners, as defined in Section 12200, that are not a natural person shall complete the form Level III Supplemental Information-Business (BGC-APP-034B (Rev. 11/07)) for a level III investigation.

(C) Supervisors, as defined in Section 12200, shall complete the form Level II Supplemental Information (BGC-APP-033 (Rev. 11/07)) for a level II investigation.

(D) Other employees and players, as defined in Section 12200, shall complete the form Level I Supplemental Information (BGC-APP-032 (Rev. 11/07)) for a level I investigation.

(28) "Third-party proposition player services" or "proposition player services" means services provided in and to the house under any written, oral, or implied agreement with the house, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by Penal Code section 330.11. "Proposition player services" also includes the services of any supervisors, as specified in paragraph (26) of this subsection.

(29) "TPP" means "third party proposition." This abbreviation is used in Section 12200.3 and in prescribing titles to be used on registrant and licensee badges, for example, "TPP Player Registrant."

(30) "Transfer Badge" means a badge issued by the Commission pursuant Section 12200.6 which authorizes an individual registrant or licensee to work for a subsequent primary owner after having ceased to work for an initial primary owner.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19805 and 19984, Business and Professions Code.

HISTORY

1. New chapter 2.1 (sections 12200-12214) and section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.

2. New chapter 2.1 (sections 12200–12214) and section refiled 3–5–2004 as an emergency, including amendment of subsection (b)(1); operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. New chapter 2.1 (sections 12200–12218.13) and section refiled 7–6–2004 as an emergency, including amendment of chapter heading, new article 1 (sections 12200–12200.21) and amendment of section; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–6–2004 order, including amendment of section, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
5. Amendment of subsection (a) and repealer and reservation of subsections (b)(5)–(b)(9) and (b)(11) filed 1–25–2006; operative 2–24–2006 (Register 2006, No. 4).
6. Change without regulatory effect amending subsections (a) and (b)(1), repealing and reserving subsection (b)(8) and amending subsections (b)(12), (b)(14), (b)(20) and (b)(27)–(b)(27)(D) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.1. Certificate.

(a) The Commission shall issue a registration or license certificate, as applicable, to each primary owner.

(b) The Commission shall endorse upon each certificate the names of all other owners affiliated with the primary owner.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).

§ 12200.3. Badge.

(a) All individuals licensed or registered as primary owners, owners, supervisors, players, or other employees of the primary owner shall wear in a prominently visible location a numbered badge issued by the Commission when present in a gambling establishment during the provision of proposition player services under the proposition player contract that covers the licensee or registrant.

(b) A badge authorizing play in a controlled game shall be of a distinctly different color than a badge that identifies a registrant or licensee, but does not authorize play. If an individual ceases to be employed by or affiliated with a particular primary owner, that individual shall surrender his or her badge to the primary owner. The primary owner shall notify the Commission and the Bureau in writing within ten (10) days of the change in status using the Change in Status Form for a Third Party Proposition Player Services Registration (CGCC–441 (Rev. 09/04)), which is hereby incorporated by reference; with this form, the primary owner shall submit the registrant's or licensee's badge.

(c) The words "TPP PLAYER REGISTRANT," "NON-PLAYER TPP REGISTRANT," "TPP PLAYER LICENSEE," OR "NON-PLAYER TPP PLAYER LICENSEE" in capital letters shall be prominently displayed on the front of the badge. The first name of the registrant or licensee shall appear on the front of the badge. The full name of the registrant or licensee shall be printed on the reverse side of the badge, together with the registrant's or licensee's category of registration or licensing as an owner, supervisor, player, or other employee.

(d) On the front of the badge, there shall be displayed the picture of the registrant or licensee submitted with the application, the badge number, and expiration date. On the front of the badge, there shall be displayed the name of the primary owner employing the registrant or licensee, which shall be the fictitious business name, if any, established pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

(e) Upon renewal of each registration and upon issuance of each registration or license, authorized players shall be issued a badge of one color; individuals not authorized to play shall be issued a badge of a distinctly

different color. Any non-player badge issued prior to July 1, 2004, shall be re-issued upon renewal pursuant to subsection (b), so that each registrant receives either a player or non-player badge.

(f) An individual registered or licensed as a player with a particular primary owner shall apply for and obtain a new badge pursuant to Section 12200.6 before beginning to work for an additional or different primary owner.

(g) Registrations, licenses, and badges are specific to the primary owner. Third party proposition player services cannot be provided without first applying for and obtaining a registration, license, or badge.

NOTE: Authority cited: Sections 19840, 19841, and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order, including amendment of section, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (b), (d) and (f) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.5. Replacement of Badge.

(a) Upon submission of a request, the Executive Director shall issue a replacement badge if all of the following conditions are met:

- (1) The requester has a current valid registration or license.
- (2) The request is complete and has been submitted on the form Request for Replacement Third Party Proposition Player Services Badge (CGCC–438, Rev. 09/04), which is hereby incorporated by reference.
- (3) The requester has supplied all of the following to the Commission:
 - (A) A nonrefundable twenty-five dollar (\$25) fee, payable to the Commission.

(B) The category of the position and information concerning the primary owner for which the replacement badge is requested: the name of the primary owner, mailing address, voice telephone number, facsimile number (if any), and email address (if any).

(C) A statement under penalty of perjury that a replacement badge is needed due to a name change or to loss or destruction of the originally issued badge.

(b) A replacement badge issued pursuant to this section shall be valid during the unexpired term of the previously issued registration or license.

(c) Upon issuance of the replacement badge, the previously issued badge for that third-party proposition services provider shall become void and shall not be used.

(d) Replacement badges shall be issued by the Commission within seven (7) days of receipt of a complete request.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order, including amendment of section, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).

§ 12200.6. Transfer or Reinstatement of Player Registration or License; Issuance of Additional Badge.

(a) Upon submission of a request, the Executive Director shall issue a player transfer badge, reinstatement badge, or additional badge if all of the following conditions are met:

- (1) The requester has a currently valid registration or license.
- (2) The request is complete and has been submitted on the form Request for an Additional/Transfer/Reinstatement Third Party Proposition Player Services Registration/License (CGCC–439, Rev. 09/04), which is hereby incorporated by reference.
- (3) The requester has supplied all of the following to the Commission:

(A) A nonrefundable one hundred and twenty-five dollar (\$125) fee payable to the Commission.

(B) The names as applicable of the current and future primary owner (or previous owner or additional owner), mailing address, voice telephone number, facsimile number (if any), and email address (if any).

(b) A badge issued pursuant to this section shall be valid during the unexpired term of the previously issued registration or license.

(c) Upon issuance of the transfer badge, the previously issued badge for that third-party proposition services provider shall become void and shall not be used.

(d) Transfer, additional, and reinstatement badges shall be issued by the Commission within seven (7) days of receipt of a complete request.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section heading and section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12200.7. Proposition Player Contract Criteria.

(a) All proposition player contracts shall be subject to, and superseded by, any changes in the requirements of regulations adopted under Business and Professions Code section 19984 that conflict with or supplement provisions of the proposition player contract.

(b) Each proposition player contract shall specifically require all of the following to be separately set forth at the beginning of the contract in the following order:

- (1) The names of the parties to the contract.
- (2) The effective dates of the contract; expiration date shall be the last day of the month.
- (3) The specific name of the Bureau-approved gaming activities for which proposition player services may be provided.
- (4) The maximum and minimum number of gaming tables available to the proposition player provider service.
- (5) That no more than one owner, supervisor, or player from each provider of proposition player service shall simultaneously play at a table.
- (6) The hours of operation that proposition player services will be provided.
- (7) A detailed description of the location, applicable security measures, and purpose of any currency, chips, or other wagering instruments that will be stored, maintained, or kept within the gambling establishment by or on behalf of the primary owner.
- (8) That proposition player services shall be provided in the gambling establishment only in compliance with laws and regulations pertaining to controlled gambling.
- (9) That proposition player services may be provided only by authorized players with current registration or licensing under this chapter.
- (10) That the primary owner shall provide the gambling establishment with a copy of its registration or license certificate, and that the gambling establishment shall maintain the certificate on file, together with a copy of the proposition player contract applying to that establishment.
- (11) That a registrant or licensee may not provide proposition player services in a gambling establishment for which the registrant holds a state gambling license, key employee license, or work permit.

(12) That collection fees charged by the house for participation in any controlled game shall be the same as those charged to other participants during the play of the game.

(13) The form to be used for the playing book record and the initial number that will be used for the sequentially numbered forms.

(14) Any agreement between the primary owner and the house for owners or supervisors to inspect or receive a copy of surveillance recordings of tables at which proposition player services are provided under the

contract during the times the services are provided, as necessary for business purposes.

(15) A full disclosure of any financial arrangements entered into during the term of the contract for any purpose between the house and any registrant or licensee covered by the proposition player contract. If there is no financial consideration that passes under the contract, a statement to that effect shall be included.

(16) That any legal dispute between the primary owner and the house, including any exclusion of a registered or licensed owner, player, or supervisor covered by the contract with the house shall be reported in writing within ten (10) days by the primary owner and the house to both the Commission and the Bureau.

(17) That the primary owner and the house shall report in writing within ten (10) days to both the Commission and the Bureau the identity of any registrant whose activities are covered by the proposition player contract and who is arrested in the gambling establishment by a peace officer, who is removed from the gambling establishment by a peace officer or the house, or who is involved in a patron dispute regarding his or her activities in the gambling establishment that is the subject of a report to a peace officer and that results in removal of one or more individuals.

(18) That any cheating reported to the house by a registrant or licensee shall be reported in writing within five (5) days of the incident by the primary owner and the house to the Commission and Bureau.

(19) That the criteria for granting any rebates by proposition players to patrons be fully disclosed in the contract; and that neither the house nor any employee of the house shall have any role in rebates. If there are no criteria for granting rebates, a statement to that effect shall be included.

(20) That any tipping arrangements shall be specified in the contract and that percentage tips shall not be given. If there are no tipping arrangements, a statement to that effect shall be included.

(21) That the primary owner may reimburse the house in specified amounts for equipment such as surveillance cameras and monitors, or cards, shuffling machines, and dice. Neither the primary owner nor its employees shall purchase, lease, or control such equipment. If there is no arrangement to reimburse the house for equipment, a statement to that effect shall be included.

(22) That the contract is a complete expression of all agreements and financial arrangements between the parties; that any addition to or modification of the contract, including any supplementary written or oral agreements, must be approved in advance by the Bureau pursuant to Section 12200.10B (Review and Approval of Amendments to Proposition Player Contracts) before the addition or modification takes effect.

(c)(1) Except as expressly authorized by this subsection, a proposition player contract shall not include any provision authorizing payment to or receipt by the house, or a designee thereof, of any share of the profits or revenues of a registrant or a licensee. Any payments made by a registrant or licensee to the house for a purpose determined by agreement with the house shall be specifically authorized by the proposition player contract. All payments shall be specified in the contract. The contract shall identify the total charge for each of the following categories: services, facilities, and advertising. In addition, the contract shall include a detailed list, excluding specific costs, of the items provided or received in each of these categories.

(2) In no event may a proposition player contract provide for any payment based on a percentage or fraction of the registrant's or licensee's gross profits or wagers made or the number of players. All payments shall be fixed and shall only be made for services and facilities requested by, and provided to, the registrant or licensee, and for a reasonable share of the cost of advertising with respect to gaming at the gambling establishment in which the registered or licensed owner participates.

(3) No contract provision shall authorize any payments for services or facilities that are substantially disproportionate to the value of the services or facilities provided. No contract shall include any charge, direct or indirect, for the value of an exclusive right to conduct proposition play within all or a portion of the gambling establishment. No payment other

than the collection fee for play, shall be required for play at any table, including, without limitation, reservation of a seat.

(d) The proposition player contract shall not contain any provision that limits contact with officials or employees of the Commission or Bureau. The proposition player contract shall prohibit an owner or the house from retaliating against any registrant or licensee on account of contact with an official or employee of the Commission or Bureau or any other public official or agency.

(e) A proposition player contract shall be consistent with the provisions of Business and Professions Code section 19984, subdivision (a), prohibiting a gambling establishment or the house from having any interest, whether direct or indirect, in funds wagered, lost, or won. No proposition player contract shall be approved that would permit the house to bank any game in the gambling establishment.

(f) Each proposition player contract approved by the Bureau shall contain a provision authorizing the Commission, after receiving the findings and recommendation of the Bureau, to terminate the contract for any material violation of any term required by this section.

(g) A primary owner may contract with more than one gambling establishment at the same time; a gambling establishment may contract with more than one primary owner at the same time. This subsection is not intended to prohibit a contract in which a gambling establishment and a primary owner agree that one primary owner shall be the exclusive provider of proposition player services to that gambling establishment.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (b)(3), (b)(16)-(18), (b)(22)-(c)(1), (d) and (f) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.9. Review and Approval of Proposition Player Contracts.

(a)(1) Proposition player services shall not be provided except pursuant to a written proposition player contract approved in advance by the Bureau. Provision of proposition player services by any person subject to registration or licensing under this chapter, or engagement of proposition player services by the holder of a state gambling license, without a contract as required by this section is a violation of this section. The Bureau shall approve a proposition player contract only if all the following requirements have been satisfied:

(A) The contract is consistent with this regulation and the Act.

(B) The contract does not provide for controlled gambling that will be conducted in a manner that is inimical to the public health, safety, or welfare.

(C) The contract will not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of controlled gambling or in the carrying on of the business and related financial arrangements.

(D) The contract will not undermine public trust that the controlled gambling operations covered by the contract will be conducted honestly, by reason of the existence or perception of any collusive arrangement between any party to the contract and the holder of a state gambling license, or otherwise.

(2) Prior to December 7, 2003, each primary owner providing proposition player services at a gambling establishment on the date that these regulations originally became effective (November 6, 2003) shall submit an Application for Contract Approval Provider of Proposition Player Services (BGC-APP-030 (Rev. 11/07)), which is hereby incorporated by reference.

(3) A complete application for contract approval shall include all of the following:

(A) A completed Application for Contract Approval to Provide Proposition Player Services (BGC-APP-030 (Rev. 11/07)), which is hereby incorporated by reference.

(B) A completed Appointment of Designated Agent for Owners and Proposition Players (BGC-APP-031 (Rev. 11/07)), which is hereby incorporated by reference.

(C) An executed copy of the contract that specifically addresses all of the requirements of Section 12200.7.

(D) A playing book form that specifically addresses all of the requirements of Section 12200.13.

(E) A five hundred dollar (\$500) nonrefundable application fee.

(F) The deposit as required by Title 11, California Code of Regulations, Section 2037(a)(2)(A). The Bureau may require an additional sum to be deposited to pay the final costs of the review and approval or disapproval of the contract. Any money received as a deposit in excess of the costs incurred in the review and approval or disapproval of the contract will be refunded and an itemized accounting will be provided to the primary owner, or primary owner's designee.

(4) The Bureau shall notify the applicant, in writing, within ten working days of receiving the application that the application or resubmitted application is complete or incomplete. If an application is incomplete, the Bureau shall request, in writing, any information, fees, or documentation needed to complete the application. Unless extended by the Bureau for further investigation up to 90 days or with the consent of the applicant, review and approval or disapproval of a proposition player contract shall be completed within 90 days of receiving a completed application and notice thereof shall be sent via United States mail to the applicant or the applicant's designee within ten (10) days of the Bureau's decision. Notice of disapproval of the contract or amendments shall specify the cause.

(b) An executed copy of the currently effective contract, and all amendment(s) thereto, and a copy of all Bureau notices that approved the contract and any amendment shall be maintained at the gambling establishment and shall be provided for review or copying upon request by any representative of the Commission or Bureau.

(c) The term of any proposition player contract shall not exceed one year and shall not be extended or renewed without the prior approval of the Bureau. No amendment changing any of the contract terms referred to in Section 12200.7, other than paragraphs (3), (4), and (6) of subsection (b) thereof, may become effective during the term of a proposition player contract without the prior written approval of the Bureau. If any amendment is made to a proposition player contract term specified in paragraphs (3), (4), or (6) of subsection (b) of Section 12200.7, both parties to the contract shall notify the Commission and Bureau in writing of the amendment within 10 days of the execution thereof by the parties to the contract.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.10A. Expedited Review and Approval of Proposition Player Contracts.

(a) In lieu of the procedure specified in Section 12200.9, the Bureau shall provide an expedited review process of an application for contract approval if all of the following conditions exist:

(1) Proposition player services were provided in the gambling establishment at any time during the 60 days preceding the application pur-

suant to a contract that was previously approved by the Bureau and that has been terminated in whole or in part.

(2) The proposed contract is between the house and a different primary owner than the previous contract under which proposition player services were provided in the gambling establishment.

(3) The terms of the proposed contract are substantially identical to the contract previously approved by the Bureau under which proposition player services were provided in the gambling establishment at any time during the 60 days preceding the application.

(b) If an application for contract approval is submitted as an expedited contract request and the Bureau determines that it does not meet the criteria, the primary owner or designee and the house shall be notified within three (3) business days of the Bureau's decision. Any contract that is not processed through the expedited review and approval process shall be treated as a new contract request and reviewed and approved or disapproved as otherwise provided by Section 12200.9(a).

(c) The Bureau shall complete the expedited review and approval of a contract within five (5) business days of receiving all of the following:

(1) A completed Application for Contract Approval to Provide Proposition Player Services (BGC-APP-030 (Rev. 11/07)), referenced in Section 12200.9.

(2) A completed Appointment of Designated Agent for Owners and Proposition Players (BGC-APP-031 (Rev. 11/07)), referenced in Section 12200.9.

(3) An executed copy of the contract that specifically addresses all the requirements of Section 12200.7.

(4) A playing book form that specifically addresses all the requirements of Section 12200.13.

(5) A five hundred dollar (\$500) nonrefundable application fee.

(6) An expedited processing fee of one hundred and fifty dollars (\$150) and a sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated processing costs in accordance with Business and Professions Code section 19867.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.10B. Review and Approval of Amendments to Proposition Player Contracts.

(a) Requests to review and approve an amendment to a proposition player contract shall be submitted with an application for approval (see Section 12200.9(a)(3)(A)) along with an executed copy of the contract, a five hundred dollar (\$500) nonrefundable application fee, and a four hundred and fifty dollar (\$450) deposit as required by Title 11, California Code of Regulations, Section 2037(a)(2)(B). The Bureau may require an additional sum to be deposited to pay the final costs of the review and approval or disapproval of the amendment. Any money received as a deposit in excess of the costs incurred in the review and approval or disapproval of the amendment shall be refunded and an itemized accounting shall be provided to the primary owner or the primary owner's designee.

(b) No amendment changing any of the contract terms referred to in Section 12200.7, other than paragraphs (3), (4), and (6) of subsection (b) thereof, may become effective during the term of a proposition player contract without the prior written approval of the Bureau. If any amendment is made to a proposition player contract term specified in paragraphs (3), (4), or (6) of subsection (b) of Section 12200.7, both parties to the contract shall notify the Commission and Bureau in writing of the amendment within ten (10) days of the execution thereof by the parties to the contract.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).

2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.10C. Submission of Contract or Amendment to Commission.

(a) As soon as is practicable after determining that any application for approval of a proposition player contract or amendment is complete and that the contract or amendment appears to qualify for approval, but in no event more than 75 days from receipt of the application package, the Bureau shall submit the contract or amendment to the Executive Director for review and comment. The Executive Director shall provide the Bureau with comments, if any, within 15 days of receipt of the contract or amendment. This paragraph does not apply to expedited approval under Section 12200.10A.

(b) A copy of the Bureau's notice of approval or disapproval of a proposition player contract or amendment thereto shall be sent to the Commission.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.11. Extension of Proposition Player Contracts.

(a) An application for approval of a contract to continue proposition player services shall include all of the following:

(1) A completed Application for Contract Approval to Provide Proposition Player Services (BGC-APP-030 (Rev. 11/07)), referenced in subsection (c) of Section 12200.9.

(2) A five hundred dollar (\$500) application fee.

(3) An executed copy of the contract.

(4) A completed playing book form for three non-consecutive sessions of play that occurred during the ten (10) days preceding the submission of the application for contract extension.

(5) A deposit in such amount as, in the judgment of the Chief of the Bureau, will be sufficient to pay the anticipated processing costs. The Bureau may require an additional sum to be deposited to pay the final costs of the review and approval or disapproval of the contract. Any money received as a deposit in excess of the costs incurred in the review and approval or disapproval of the contract will be refunded and an itemized accounting will be provided to the primary owner, or primary owner's designee.

(b) The application shall be submitted to the Bureau no later than 90 days prior to the date that the current contract is scheduled to expire.

(c) As soon as is practicable after determining that any application for approval of a proposition player contract extension is complete and that the contract extension appears to qualify for approval, but in no event less than 75 days from receipt of the application, the Bureau shall submit the contract extension to the Commission for review and comment. The Commission shall provide the Bureau with comments, if any, within 15 days of receipt of the contract extension.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and new NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)(1), (a)(5), (b) and (c) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.13. Playing Book.

(a) The primary owner shall be responsible for assuring that its players maintain accurate, complete, and up-to-date playing books for all sessions of play worked in conformity with regulations of the Commission.

The information in the playing-book record shall be transferred to the primary owner, or a supervisor designated by the primary owner at the end of each session of play. The primary owner shall maintain this information in English at a single location in the State of California, and shall maintain the original playing book records in the State of California, for at least five (5) years. The location or locations where the records of this information and the original playing book records are maintained, and any change therein, shall be disclosed to the Commission and Bureau by written notice mailed or delivered within five (5) business days after establishing or changing such a location.

(b) The playing book shall be prepared and maintained as follows:

(1) The playing book form shall be reviewed and approved or disapproved during the review of the contract by the Bureau.

(2) Each form in the playing book shall be recorded in ink and include, but not be limited to, the following information:

(A) Sequential numbers. Any unused form shall be voided and maintained in the playing book.

(B) The name of the gambling establishment where play occurred.

(C) The date and approximate time when play occurred.

(D) Beginning and ending balances.

(E) Individual identification of all fills and credits affecting the balance.

(F) The printed full name and badge number of the proposition player, which includes owners, supervisors, and/or players.

(G) The table number assigned by the gambling establishment.

(H) The specific name of the Bureau-approved gaming activity.

(I) The name of the primary owner.

(3) The form for each session of play shall be time-stamped, dated, and signed under penalty of perjury by the person who prepared it and shall include a declaration in the following form: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (b)(1) and (b)(2)(H) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.14. Organization Chart and Employee Report.

(a) No later than September 1, 2004, each registered or licensed primary owner shall submit a current organization chart and a listing of all employees by name and title to the Bureau and the Commission. The listing of employees shall be submitted on the form Third Party Proposition Player Services Employee Report (CGCC-440 (Rev. 09/04)), which is hereby incorporated by reference.

(b) Upon renewal of the registration or license, each registered or licensed primary owner shall submit an updated organization chart and a listing of all employees by name and title to the Bureau and the Commission.

(c) The primary owner shall notify the Bureau and the Commission in writing within ten (10) days of any change to its ownership structure.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

3. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.15. Transfers and Sales.

(a) If any registered or licensed owner wishes to sell in whole or in part any ownership interest to any unregistered or unlicensed person, the owner must first notify the Commission in writing to request approval of the transaction. The transferee must apply for and be approved as a TPP registrant or licensee. Evidence of the transferor's agreement to transfer the interest and, if applicable, the proposed articles of incorporation, shall accompany the application for registration or licensing.

(b) The effective date of the sale shall be at least 90 days after receipt of the application for registration or license, or such other shorter time period as shall be set by the Executive Director with the agreement of the applicant.

(c) Evidence of the final execution of a transfer or sale of an interest to a registered or licensed person shall be submitted in writing to the Commission within ten (10) days of the final transaction.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12200.16. Inspections and Investigations.

(a) When requested by a representative of the Bureau, a registrant or licensee shall immediately permit the Bureau representative, in accordance with the request, to inspect, copy, or audit all requested documents, papers, books, and other records of the registrant or licensee related to the provision of proposition player services. If the records are maintained in electronic form and the registrant or licensee is requested to do so, the registrant or licensee shall provide a printed copy in English pursuant to this section within 24 hours of the request.

(b) If requested in writing by the Executive Director, the Bureau shall conduct an inspection or investigation of a registrant or a licensee. Within 30 days of receipt of the request, the Bureau shall advise the Executive Director in writing of the status of the inspection or investigation and shall also provide an estimated date on which the inspection or investigation may reasonably be expected to be concluded. Upon completion of the inspection or investigation, the Bureau shall provide a final written report to the Executive Director.

(c) Nothing in this chapter precludes Commission staff from carrying out their duties under applicable statutes and regulations.

(d) All records required by this chapter shall be maintained in English, in California, for at least five (5) years.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of subsection (d), transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)-(b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.17. Emergency Orders.

Registrants and licensees under this chapter shall be subject to emergency orders under Business and Professions Code section 19931.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19931 and 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by

11-3-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7-6-2004 order transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending NOTE filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.18. Revocation.

The Commission may revoke a registration or license, upon any of the following grounds, after a hearing conducted pursuant to the same procedures applicable to the revocation of a gambling establishment license:

(a) The registrant or licensee committed, attempted to commit, or conspired to commit any acts prohibited by the Act or this chapter.

(b) Any act or omission by the registrant that would disqualify the registrant from obtaining registration under this chapter. Any act or omission by the licensee that would disqualify the licensee from obtaining licensing under this chapter.

(c) The registrant or licensee engaged in any dishonest, fraudulent, or unfairly deceptive activities in connection with controlled gambling, including any violation of laws related to cheating.

(d) The registrant or licensee failed or refused to comply with the requirements of Section 12200.16 (Inspections and Investigations).

(e) The registrant or licensee failed or refused to comply with the requirements of Section 12200.14 (Organization Chart and Employee Report).

(f) The registrant or licensee concealed or refused to disclose any material fact in any inquiry by the Bureau or the Commission.

(g) The registrant or licensee committed, attempted, or conspired to commit any embezzlement or larceny against a gambling licensee or proposition player registrant or on the premises of a gambling establishment.

(h) The registrant or licensee has been lawfully excluded from being present upon the premises of any licensed gambling establishment for any reason relating to cheating or any violation of the Act by the registrant or licensee.

(i) The registrant or licensee buys or sells chips other than to or from the house, except for exchanging with a patron chips of one denomination for chips of another denomination.

(j) The registrant or licensee lends money or chips to gambling establishment patrons, except for exchanging with a patron chips of one denomination for chips of another denomination.

(k) The registrant or licensee made wagers that were not specifically authorized by the game rules approved by the Bureau.

(l) Any owner knowingly permitted one or more of the owner's supervisors or players to commit any act described in subsections (a) to (k), inclusive.

(m) Any owner knew, or failed to implement reasonable oversight procedures that would have apprised the owner, that one or more of the registrants or licensees was in violation of one or more provisions of this chapter or of the Act and failed or refused to take action to prevent the recurrence of the violation or violations.

(n) The registrant or licensee provided proposition player services to a gambling establishment without a Bureau-approved contract on and after April 30, 2004.

NOTE: Authority cited: Sections 19840, 19941 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (f), (h), (k), (m) and (n) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.20. Annual Fee.

(a)(1) No later than September 1 of each year, beginning September 1, 2004, each registered primary owner shall submit to the Commission the annual fee set forth in subsection (c) of this section, based on the total number of registrations or licenses affiliated with the primary owner on the immediately preceding August 1. The payment due September 1 of each year shall be based on the total number of registrations affiliated with the primary owner on August 1 that same year.

(2) For each licensed primary owner, the annual fee shall be assessed based upon the total number of licenses affiliated with the primary owner 120 days prior to the renewal due date.

(b) Within 30 days of approval of any request to convert a registration to a license, the Commission shall notify the licensee of any additional fees owed for the term of the license granted, allowing pro rata credit on a monthly basis for any annual fee paid in connection with a registration that has not expired.

(c) The annual fee shall be computed as follows:

(1) Beginning September 1, 2004, each primary owner shall pay the annual sum of two thousand fifty dollars (\$2050) per registrant or licensee. This fee shall be retroactive to September 1, 2004. Any overpayment of fees previously paid that cannot be applied against an installment payment that is due shall be credited against the following year's annual fee obligation, unless the primary owner no later than February 1, 2005 submits a written refund request to the Executive Director.

(2) Beginning September 1, 2005, each primary owner shall pay the annual sum of two thousand three hundred dollars (\$2300) per registrant or licensee, less any applicable credit that may apply from paragraph (1) of this subsection.

(3) Beginning September 1, 2006, and thereafter, each primary owner shall pay the annual sum of two thousand eight hundred dollars (\$2800) per registrant or licensee, less any applicable credit that may apply from paragraph (1) of this subsection.

(d)(1) The annual fee for each registered primary owner may be paid in installments. The primary owner must submit a written request to the Executive Director to make installment payments prior to August 1 of that same year. Upon approval by the Executive Director, installment payments submitted prior to licensure shall be made as follows: one-third of the annual fee to be submitted no later than September 1, one-third no later than December 1, and the balance no later than March 1.

(2) The annual fee for each licensed primary owner may be paid in installments. The primary owner must submit a written request to the Executive Director to make installment payments 120 days prior to the expiration of the license. Upon approval by the Executive Director, installment payments submitted after conversion to licensure shall be made as follows: one-third of the annual fee to be submitted prior to issuance of the license, one-third to be submitted three months thereafter, and one-third to be submitted six (6) months thereafter.

(e) Refunds shall not be available in the event of a subsequent decrease in the number of registrants or licensees upon which the annual fee payment was based.

(f)(1) Following assessment of the annual fee, if the primary owner increases the number of its registrants or licensees above the number upon which the annual fee assessment was based, the primary owner shall submit to the Commission both the required application fee for the additional registrants or licensees, and the additional per player annual fee set forth in subsection (c) of this section. No new badges shall be issued until the Commission has received all fees required by this subsection.

(2) Annual fees due under this subsection shall be prorated on a monthly basis.

(3) Annual fees due under this subsection may be paid in installments, on the conditions that the installment payment request is submitted in writing, that one-third of the fees are paid with the application for additional registrants or licensees, and that two subsequent equal payments are paid at reasonable intervals prior to expiration of the applicable term, subject to the approval of the Executive Director.

(g) No renewal application shall be approved by the Commission until any delinquent annual fees have been paid in full.

(h) No application for a contract extension shall be approved by the Bureau until any delinquent annual fees have been paid in full.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (c)(1)-(3), (f)(1)-(3) and (h) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12200.21. Compliance.

(a) Registrants and licensees shall comply with game rules approved by the Bureau, including but not limited to, the rules regarding player-dealer rotation and table wagering. A proposition player contract may, concerning any table assigned for play by the contracted registrant or licensee, contain a provision precluding players of any other registrant or licensee under this chapter or Chapter 2.2 of this division from playing at that table during the periods of play assigned by the proposition player contract for the contracted registrant or licensee. The house is not precluded from assigning a seat at the table to a registrant or licensee.

(b) Only an authorized player may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play in the performance of a proposition player contract.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsection (a) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 2. Registration

§ 12200.25. Transition to Licensing.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New article 2 (sections 12200.25-12204) and section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including repealer of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12201. Registration.

(a) On and after March 31, 2004, in addition to the requirements of Section 12200.9(a)(1), no person may provide proposition player services or obtain a badge, as required by Section 12200.3, without a current valid registration issued by the Commission.

(b) Registration shall be issued for a period of one (1) year to owners and supervisors, and for a period of two (2) years to players and other employees.

(c) Registration under this article or its predecessor shall not create any vested right to licensing under Article 3 of this chapter or any successor provision.

(d) If a primary owner is a corporation, partnership, or other business entity, each owner and individual having a relationship to that entity spe-

cified in Business and Professions Code section 19852, subdivisions (a) through (h), inclusive, shall individually apply for and obtain registration as an owner listed on the business entity's registration certificate. No business entity or sole proprietor shall be registered under this chapter that is also licensed under the Act to operate a gambling establishment.

(e) If the application is for registration as a supervisor or player, the primary owner that will employ the applicant shall be currently registered under this chapter.

(f) Registration is non-transferable.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19951(a), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-5-2004 as an emergency, including amendment of subsections (a), (d) and (f) and new subsection (g); operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-6-2004 as an emergency, including further amendment of section and NOTE; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
5. Change without regulatory effect amending subsections (c)-(d) and NOTE filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12202. Application for Registration.

(a) The application for registration shall designate whether the registration is requested as a primary owner, owner, supervisor, player, or other employee. The application shall be signed by both the individual applicant and the designated agent, or, if the applicant is a business entity, by the chief executive officer or other designated officer of the business entity.

(b) An application for registration shall include all of the following:

(1) Payment of a nonrefundable application fee in the amount of five hundred dollars (\$500).

(2) A completed Application for Third Party Proposition Player Services Registration (CGCC-435 (Rev. 9/04)), which is hereby incorporated by reference.

(3) A properly completed Request for Live Scan Service (California Department of Justice Form BCII 8016, rev. 4/01) for an applicant that is an individual, confirming that the applicant's fingerprints have been submitted to the BCII for an automated background check and response.

(4) Two 2x2 inch color passport-style photographs of an applicant that is an individual taken no more than one (1) year before submission of the application to the Commission.

(c) An applicant that is an individual shall complete and submit the form Third Party Proposition Player Services Registration Supplemental Information (CGCC-436 (Rev. 06/04)), which is hereby incorporated by reference.

(d) An applicant for registration or for any approval required by this chapter shall make full and true disclosure of all information to the Commission and Bureau as required for the application and as requested by the Commission or Bureau to carry out the policies of this state relating to controlled gambling.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951(a) and 19984, Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency, including amendment of subsections (b)(2) and (c); operative 3-5-2004 (Register 2004, No. 10). A Certifi-

cate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 7-6-2004 as an emergency, including further amendment of section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Change without regulatory effect amending subsection (b)(3) filed 12-26-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).
7. Change without regulatory effect amending subsections (b)(2) and (c)-(d) and amending NOTE filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203. Processing of Applications for Initial Registration.

(a) The Executive Director shall notify the applicant in writing within 20 days of receiving the application, that the application or resubmitted application is complete and accepted for filing, or that the application or resubmitted application is deficient. If an application for registration is incomplete, the Executive Director shall request in writing any information needed in order to complete the application. The applicant shall be permitted 30 days in which to furnish the information. If the applicant fails to respond to the request, the application shall be deemed abandoned and no further action will be taken on it.

(b) Upon determination that an application for registration is complete, the application shall be processed within 60 days and the Executive Director shall either issue the registration and badge applied for or shall notify the applicant of denial and the grounds therefor under Section 12204.

(c) If the applicant submits a request for withdrawal of his or her application to the Commission, the application shall be deemed abandoned and no further action will be taken on it.

(d) The Commission shall provide written notice of abandonment of an application to the applicant. If the application is for registration as a supervisor, player, or other employee, the Commission shall also provide written notice of abandonment of the application to the primary owner.

(e) Nothing in this chapter shall require the Commission or Bureau to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained as confidential. Nothing in this chapter shall require the Commission or Bureau to divulge any information that might reveal the identity of any source of information or jeopardize the safety of any person.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-5-2004 as an emergency, including amendment of subsection (a) and NOTE; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-6-2004 as an emergency, including amendment of section heading and further amendment of section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-6-2004 order, including amendment of section heading and section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
5. Change without regulatory effect amending subsection (e) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203A. Processing of Applications for Renewal of Registration.

(a) Renewal applications for owners shall be received no later than 120 days prior to the expiration of the current registration, together with the five hundred dollar (\$500) application fee. If an application is received after this 120-day deadline, an expedited processing fee of sixty dollars (\$60) shall be submitted with the application. If an expedited processing fee is due but has not been received, a registration renewal shall not be issued.

(b) Renewal applications for supervisors, players, and other employees shall be received no later than 90 days prior to the expiration of the current registration, together with the required five hundred dollars (\$500) application fee. If an application is received after this 90-day deadline, an expedited processing fee of sixty dollars (\$60) shall be submitted with the application. If an expedited processing fee is due but has not been received, a registration renewal shall not be issued.

(c) The Executive Director shall notify the applicant in writing within 20 days of receiving the renewal application, that the application or resubmitted application is complete and accepted for filing, or that the application or resubmitted application is deficient. If an application for registration is incomplete, the Executive Director shall request in writing any information needed in order to complete the application. The applicant shall be permitted 30 days in which to furnish the information. If the applicant fails to respond to the request, the application shall be deemed abandoned and no further action will be taken on it.

(d) Upon determination that an application for renewal of registration is complete, the application shall be processed within 60 days and the Executive Director shall either issue the registration and badge applied for or shall notify the applicant of denial and the grounds therefor under Section 12204.

(e) The Commission shall provide written notice of abandonment of an application to the applicant. If the application is for registration as a supervisor, player, or other employee, the Commission shall also provide written notice of abandonment of the application to the primary owner.

(f) If the applicant submits a request for withdrawal of his or her application to the Commission, the application shall be deemed abandoned and no further action will be taken on it.

(g) Nothing in this chapter shall require the Commission or Bureau to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained as confidential. Nothing in this chapter shall require the Commission or Bureau to divulge any information that might reveal the identity of any source of information or jeopardize the safety of any person.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Change without regulatory effect amending subsection (g) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203.1. Temporary Player Registration.

(a) While an application for regular player registration is being processed, and subject to Section 12203.2, the Executive Director may issue a temporary registration pursuant to this section, which shall be valid for no more than 60 days.

(b) Upon issuance of a regular registration, the temporary registration previously issued to the registrant shall become void and shall not be used thereafter.

(c) In the event that the regular registration is issued prior to Commission action on the application for the temporary registration, the application for the temporary registration shall be deemed withdrawn and no further action will be taken on it.

(d) If an application for a regular registration is withdrawn, the application for a temporary registration shall be deemed abandoned and the Commission will take no further action on it.

(e) If Family Code section 17520 (child and family support) is applicable to an application, then a temporary registration shall be issued for 150 days as provided in the Family Code.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12–20–2004; operative 12–20–2004 (Register 2004, No. 52).
2. Change without regulatory effect amending subsections (a) and (d) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203.2. Temporary Player Registration: Application; Criteria.

The Executive Director shall, within 15 days of receiving a complete application, issue a temporary player registration valid for 60 days (or 150 days if Family Code section 17520 applies) if all of the following requirements are met:

(a) The applicant has applied for a temporary player registration by completing the Commission's regular registration application form, requesting issuance of a temporary registration by checking the appropriate box on the application form, and submitting with the application a nonrefundable twenty-five dollar (\$25) temporary registration fee, in addition to the regular registration fee of five hundred dollars (\$500).

(b) The applicant has supplied to the Commission all the documentation and fees required for a regular registration.

(c) Neither the application in its entirety, nor the results of the review of the applicant's criminal history up until the date of issuance of the temporary registration, discloses any of the following:

- (1) The applicant has been convicted of any felony.
- (2) The applicant has, within the ten (10) year period immediately preceding the submission of the application, been convicted of any of the following offenses, not including convictions which have been expunged or dismissed as provided by law:

(A) A misdemeanor involving a firearm or other deadly weapon.

(B) A misdemeanor involving gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code.

(C) A misdemeanor involving a violation of an ordinance of any city, county, or city and county, which pertains to gambling or gambling-related activities.

(D) A misdemeanor involving violations of the Act.

(E) A misdemeanor involving dishonesty or moral turpitude.

(3) The applicant has had an application for a gambling license, work permit, proposition player registration, proposition player license, gambling business registration, or gambling business license denied.

(4) The applicant has had a gambling license, work permit, proposition player registration, proposition player license, gambling business registration, or gambling business license revoked.

(5) The applicant is disqualified under the Act or other provisions of law from holding a temporary registration.

(d) The review of the applicant's criminal history has resulted in one of the following:

(1) A response has been received from the BCII or Federal authorities that is consistent with a finding that the applicant has not sustained any disqualifying criminal convictions, or,

(2) No response from the BCII or Federal authorities has been received within the time period set forth in subsection (a)(2) of Section 12203.3.

(e) The application and other information obtained during the review does not disclose any factor indicating that approval of the temporary registration may in the judgment of the Executive Director present a danger to the public or to the reputation of controlled gambling or proposition playing in this state.

(f) The applicant is not ineligible under Business and Professions Code section 19859, subdivisions (b), (c), (f), or (g), the terms of which are in-

corporated by reference and hereby expressly made applicable to applications for temporary player registrations.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19951 and 19984, Business and Professions Code.

HISTORY

1. New section filed 12–20–2004; operative 12–20–2004 (Register 2004, No. 52).
2. Change without regulatory effect amending subsections (d)(1)–(2) filed 12–26–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).
3. Change without regulatory effect amending subsections (c), (c)(2), (c)(2)(B), (c)(2)(D), (c)(5) and (d)(2) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203.3. Processing Times for Temporary Player Registration.

Applications for issuance of a temporary player registration by the Executive Director shall be processed within the following time frames:

(a) The maximum time within which the Commission shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for filing, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is five (5) working days.

(b) A temporary registration shall be either granted or denied within no more than 15 working days after the filing of a completed application, unless a regular registration has already been approved.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12–20–2004; operative 12–20–2004 (Register 2004, No. 52).
2. Change without regulatory effect amending section filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12203.5. Cancellation of Temporary Registration.

(a) Any temporary registration issued in accordance with this article shall be subject to summary cancellation pursuant to subsections (b) and (c) of this section.

(b) A temporary registration shall be cancelled by the Executive Director at any time if any of the following applies:

(1) The Commission determines that it has received reliable information that the holder of the temporary registration is ineligible under subsection (c) of Section 12203.2, has failed to reveal any fact material to the holder's qualification for temporary registration, or has supplied information to the Commission that is untrue or misleading as to a material fact pertaining to the criteria for issuance of temporary registrations.

(2) The applicant's regular registration application is referred by a vote of the Commission for an evidentiary hearing pursuant Business and Professions Code section 19825, and the Commission directs the Executive Director to cancel the temporary registration.

(3) The Executive Director receives from the applicant a request to withdraw his or her application for regular registration.

(c) If any of the circumstances set forth in subsection (b) applies, then the Executive Director shall immediately do all of the following:

(1) Notify the temporary registration holder, the primary owner, the contracted gambling establishment, and the Bureau in writing of the cancellation of the temporary registration and the grounds for cancellation.

(2) Notify the temporary registrant that he or she is required to surrender the temporary registration badge to the Commission not more than ten (10) days following the date that the notice of cancellation was mailed or such greater time as is authorized by the Executive Director.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12–20–2004; operative 12–20–2004 (Register 2004, No. 52).
2. Change without regulatory effect amending subsections (b)(1) and (c)(1) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12204. Ineligibility for Registration.

An applicant shall be ineligible for registration for any of the following causes:

(a) An individual applicant is under the age of 21.

(b) The applicant has been convicted of any felony, including a conviction in a court of the United States or any other state of an offense that is classified as a felony by the laws of this state.

(c) The applicant has, within the ten (10) year period immediately preceding the submission of the application, been convicted of a misdemeanor involving a firearm or other deadly weapon, gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) or Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, violations of the Act, or dishonesty or moral turpitude, not including convictions which have been expunged or dismissed as provided by law.

(d) If the application is for registration as an owner, supervisor, or player, the applicant has been subject to a final administrative or judicial adjudication revoking a registration under this chapter or a state gambling license, key employee license, work permit or finding of suitability or has had an application denied under this chapter or the Act.

(e) The applicant would be ineligible for a state gambling license under any of the criteria set forth in Business and Professions Code section 19859, subdivisions (b), (e), or (f).

(f) The applicant would be ineligible for a state gambling license under Business and Professions Code section 19858.

(g) The applicant has violated one or more of the prohibitions set forth in paragraphs (5), (11), or (20) of subsection (b) of Section 12200.7 or paragraphs (1) and (3) of subsection (c) of Section 12200.7.

(h) The applicant has failed to comply with one or more of the requirements set forth in paragraphs (8), (9), (15), (16), (17), (18) and (21) of subsection (b) of Section 12200.7 or in paragraph (2) of subsection (c) or subsection (e) of Section 12200.7.

(i) The applicant is ineligible based on any other provision of law.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-5-2004 as an emergency; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-6-2004 as an emergency, including further amendment of section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
5. Change without regulatory effect amending subsections (c), (d), (g) and (h) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12205. Cancellation of Regular Registration.

(a) Any regular registration issued in accordance with this chapter shall be subject to cancellation pursuant to this section. A registration shall be cancelled if the Commission determines after a noticed hearing that the registrant is ineligible for registration, has failed in the application for registration to reveal any fact material to the holder's qualification for registration, or has supplied information in the registration application that is untrue or misleading as to a material fact pertaining to the criteria for issuance of registration.

(b) If the Commission finds that any of the circumstances set forth in subsection (a) apply, then the Executive Director shall immediately do all of the following:

(1) Provide written notice to the registrant and the Bureau of the cancellation of the registration and the grounds thereof, and provide written notice of the cancellation to the owner, if the registrant is a supervisor, player, or other employee and to any gambling establishment in which the registrant provides proposition player services.

(2) Notify the registrant, if an individual, that he or she is required to surrender the registrant's badge to the Commission not more than ten days following the date that the notice of the cancellation was mailed or such greater time as is authorized by the Executive Director.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3-5-2004 as an emergency; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7-6-2004 order, including amendment of section heading and section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
5. Change without regulatory effect amending subsection (b)(1) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12205.1. Transition to Licensing.

(a) As expeditiously as possible in light of available program resources, the Bureau shall summon persons registered as primary owners, owners, supervisors, players, and other employees for the purpose of applying for licenses under this chapter. The registration of any registrant that fails or refuses to submit a Request for Conversion of a Third Party Proposition Player Services Registration to a License (CGCC-437 (Rev. 04/08)), which is hereby incorporated by reference, including any fees to the Commission within 30 days of receiving a summons from the Bureau shall expire by operation of law on the following day. Prior to and during review of a request to convert a registration to a license, a registration shall remain valid and may be renewed by the registrant as necessary, upon application and approval of renewal of registration as provided in Section 12203A.

(b) Any person who became affiliated with a primary owner following receipt of a summons from the Bureau shall apply for registration pursuant to this chapter and shall be called forward by the Bureau expeditiously.

(c) If the registration expires by operation of law, the former registrant shall submit a new Request for Conversion of a Third Party Proposition Player Services Registration to a License (CGCC-437 (Rev. 04/08)) and a new five hundred dollar (\$500) nonrefundable application fee.

(d) The transition to licensing for registrations approved prior to April 30, 2004, shall be completed no later than July 1, 2008.

(e) Except as provided in subsection (c), a request to convert a registration to a license shall require only payment of a sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated investigation and processing costs, in accordance with Business and Professions Code sections 19867 and 19984(c).

(f) If a license is issued, it will expire as provided in Section 12218.13 (Term of License).

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Amendment of subsection (d) filed 9-4-2007; operative 9-4-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 36).
3. Change without regulatory effect amending subsections (a)-(c) and (e) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12206. Badge.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by

3–5–2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 3–5–2004 as an emergency, including further amendment of section; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12207. Proposition Player Contract Criteria.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency, including further amendment of section; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12208. Review and Approval of Proposition Player Contracts.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency, including further amendment of section; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12209. Playing Books.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency, including amendment of subsections (b)(2)(E) and (b)(3); operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12210. Transfers and Sales.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12211. Inspections.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12212. Compliance.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect adding NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12213. Revocation.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency, including amendment of NOTE; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12214. Emergency Orders.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19984 and 19931, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

Article 3. Licensing

§ 12218. Request to Convert Registration to License.

(a) A request to convert a registration to a license shall be submitted to the Commission only in response to a written summons from the Bureau to a primary owner pursuant to Section 12205.1. Each primary owner's request shall be accompanied by the requests of all affiliated owners, supervisors, players, and other employees.

(b) The request to convert a registration to a license shall designate whether the license is requested as a primary owner, owner, supervisor, player, or other employee. The request shall be signed by the individual requester or, if the requester is a business entity, by the chief executive officer or other designated officer of the business entity.

(c) The request to convert a registration to a license shall include all of the following:

(1) A completed Request for Conversion of a Third Party Proposition Player Services Registration to a License (CGCC–437 (Rev. 04/08)), referenced in Section 12205.1.

(2) Two 2x2 inch color passport-style photographs of a requester that is an individual taken no more than one year before submission of the request to the Commission.

(3) The supplemental information package as defined in Section 12200(b).

(4) A sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated investigation and processing costs, in accordance with Business and Professions Code sections 19867 and 19984.

(5) A copy of the summons issued by the Bureau.

(d) Nothing in this chapter shall require the Commission or Bureau to divulge to the requester any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained as confidential. Nothing in this chapter shall require the Commission or Bureau to divulge any information that might reveal the identity of any source of information or jeopardize the safety of any person.

NOTE: Authority: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New article 3 (sections 12218–12218.13) and section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order, including amendment of section, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (c)(1) and (c)(3)–(d) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12218.1. Subsequent Registrants.

After a primary owner is licensed, the summons previously issued to that primary owner by the Bureau shall be deemed to apply to all subsequent registrants who become affiliated with that primary owner subsequent to licensure.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 12–20–2004; operative 12–20–2004 (Register 2004, No. 52).
2. Change without regulatory effect amending section filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12218.5. Withdrawal of Request to Convert Registration to License.

(a) A request for withdrawal of a request to convert a registration to a license may be made at any time prior to final action upon the request by the Chief by the filing of a written request to withdraw with the Commission. For the purposes of this section, final action by the Bureau means a final determination by the Chief regarding his or her recommendation on the request to the Commission.

(b) The Commission shall not grant the request unless the requester has established that withdrawal of the request would be consistent with the public interest and the policies of the Act and this chapter. If a request for withdrawal is denied, the Bureau may go forward with its investigation and make a recommendation to the Commission upon the request, and the Commission may act upon the request to convert as if no request for withdrawal had been made.

(c) If a request for withdrawal is granted with prejudice, the requester thereafter shall be ineligible to renew its request until the expiration of one year from the date of the withdrawal. Unless the Commission otherwise directs, no payment relating to any request is refundable by reason of withdrawal of request.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections 19869 and 19984, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)–(b) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12218.7. Processing Times—Request to Convert Registration to License.

A request to convert a registration to license submitted pursuant to this chapter shall be processed within the following timeframes:

(a) The maximum time within which the Commission shall notify the applicant in writing that a request or a resubmitted request is complete and accepted for initial processing by the Commission, or that a request or a resubmitted request is deficient and identifying what specific additional information is required, is 20 days after receipt of the request. For the purposes of this section, “request” means the Request for Conversion of a Third Party Proposition Player Services Registration to a License (CGCC–437 (Rev. 04/08)) referenced in Section 12205.1. A request is not complete unless accompanied by *both* a copy of the summons from the Bureau setting a deadline for filing the request with the Commission and the supplemental information package required by Section 12218(c)(3) for review by the Bureau pursuant to subsection (c) for persons affiliated with the primary owner to whom the summons was addressed. The Commission shall not review the supplemental information for completeness.

(b) A request and the supplemental information package shall be forwarded by the Commission to the Bureau for processing within ten (10) days of the date that the Commission determines that the request is complete.

(c) The Bureau shall review the supplemental information package submitted for completeness and notify the applicant of any deficiencies in the supplemental information package, or that the supplemental information package is complete, within 45 days of the date that the request and supplemental information package are received by the Bureau from the Commission. Notwithstanding this subsection, subsequent to acceptance of the supplemental information package as complete, the Bureau may, pursuant to Business and Professions Code section 19866, require the requester to submit additional information.

(d) Pursuant to Business and Professions Code section 19868, the Bureau shall, to the extent practicable, submit its recommendation to the Commission within 180 days after the date the Bureau is in receipt of both the completed request pursuant to subsection (b) and the completed supplemental information package pursuant to subsection (c). If the Bureau has not concluded its investigation within 180 days, then it shall inform the applicant and the Commission in writing of the status of the investigation and shall also provide the applicant and the Commission with an estimated date on which the investigation may reasonably be expected to be concluded.

(e) The Commission shall grant or deny the request within 120 days after receipt of the final written recommendation of the Bureau concerning the request, except that the Commission may notify the applicant in writing that additional time, not to exceed 30 days, is needed.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order, including amendment of section, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
3. Change without regulatory effect amending section filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12218.11. Ineligibility for Licensing.

A requester shall be ineligible for licensing for any of the following causes:

(a) An individual applicant is under the age of 21.

(b) The requester has been convicted of any felony, including a conviction in a court of the United States or any other state of an offense that is classified as a felony by the laws of this state.

(c) The requester has, within the ten (10) year period immediately preceding the submission of the request to convert, been convicted of a misdemeanor involving a firearm or other deadly weapon, gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) or Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, violations of the Act, or dishonesty or moral turpitude, unless the applicant has been granted relief pursuant to Penal Code sec-

tion 1203.4, 1203.4a, or 1203.45, provided, however, that the granting of relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45 shall not constitute a limitation on the discretion of the Commission.

(d) If the request to convert is for licensing as an owner, supervisor, or player, the requester has been subject to a final administrative or judicial adjudication revoking a registration or license under this chapter or a state gambling license, key employee license, work permit or finding of suitability or has had an application denied under this chapter or the Act.

(e) The requester has failed to meet the requirements of Business and Professions Code sections 19856 or 19857.

(f) The requester would be ineligible for a state gambling license under any of the criteria set forth in Business and Professions Code section 19859, subdivisions (b), (c), or (f).

(g) The requester would be ineligible for a state gambling license under Business and Professions Code section 19858.

(h) The requester has violated one or more of the prohibitions set forth in paragraphs (5), (11) and (20) of subsection (b) of Section 12200.7 or paragraphs (1) and (3) of subsection (c) of Section 12200.7.

(i) The requester has failed to comply with one or more of the requirements set forth in paragraphs (8), (9), (15), (16), (17), (18) or (21) of subsection (b) of Section 12200.7 or in paragraph (2) of subsection (c) of Section 12200.7.

(j) The applicant is ineligible based on any other provision of law.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (c)-(d) and (h)-(i) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12218.13. Term of License.

(a) All initial licenses shall be issued for a period of two (2) years.

(b) Due to nonrecurring workload problems associated with the processing of the first round of requests to convert registrations to licenses, all other initial licenses that are granted within three (3) years of the effective date of these regulations shall be issued for a period of two (2) years.

(c) Beginning July 1, 2007, all initial and renewal licenses shall be issued for a period of one (1) year, except for player and other employee licenses, which shall be issued for a period of two (2) years.

NOTE: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

Chapter 2.2. Gambling Businesses: Registration; Licensing

Article 1. Definitions and General Provisions

§ 12220. Definitions.

(a) Except as otherwise provided in Section 12002 and in subsection (b) of this section, the definitions in Business and Professions Code section 19805 shall govern the construction of this chapter.

(b) As used in this chapter:

(1) "Additional Badge" means a badge issued by the Commission pursuant to Section 12220.6 which authorizes an individual registrant or licensee to be simultaneously employed by more than one primary owner.

(2) "Applicant" means an applicant for registration or licensing under this chapter, including in the case of an owner that is a corporation, partnership, or any other business entity, all persons whose registrations or licenses are required to be endorsed upon the primary owner's registration or license certificate.

(3) "Authorized player" means an individual associated with a particular primary owner whose badge authorizes play in a controlled game on behalf of the primary owner, including the primary owner, all other owners, all supervisors, and all players. Only authorized players may perform the functions of a supervisor or player.

(4) "Badge" means a form of identification issued by the Commission identifying a registrant or licensee.

(5) [Reserved]

(6) [Reserved]

(7) [Reserved]

(8) [Reserved]

(9) [Reserved]

(10) "Funding source" means any person that provides financing, including but not limited to loans, advances, any other form of credit, chips, or any other representation or thing of value, to an owner-registrant or owner-licensee, other than individual registrants under subsection (d) of Section 12221 or individual licensees. "Funding source" does not include any federally or state chartered lending institution or any of the following entities that in the aggregate owns at least one hundred million dollars (\$100,000,000) of securities of issuers that are not affiliated with the entity:

(A) Any federally-regulated or state-regulated bank or savings association or other federally- or state-regulated lending institution.

(B) Any company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state.

(C) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.).

(D) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees.

(E) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1001 et seq.).

(F) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.).

(G) Any entity, all of the equity owners of which individually meet the criteria of this paragraph.

(11) "Gambling business," except as otherwise provided in this paragraph, means a business enterprise that engages the services of employees, independent contractors, or both to participate in the play of any controlled game in a gambling establishment that has a rotating player-dealer position as permitted by Penal Code section 330.11. "Gambling business" also refers to the conduct of such a business enterprise in a gambling establishment. "Gambling business" does not, however, include the provision of proposition player services subject to Chapter 2.1 (commencing with Section 12200) of this division.

(12) [Reserved]

(13) "License" means a license issued by the Commission pursuant to Article 3 of this chapter.

(A) There are four license categories entitling the holder to operate a gambling business:

1. Primary owner,
2. Owner,

3. Supervisor, and
4. Player.

(B) All "other employees" (as defined in this section) of the primary owner who are present in the gambling establishment during the conduct of the gambling business shall be licensed as "other employee" and shall be required to submit an application and be approved or denied based upon the same criteria that apply to a player.

(C) A primary owner and an owner may also perform the functions of a supervisor or player, and the holder of a supervisor's license may also perform the functions of a player.

(D) No licensee, other than an owner, supervisor, or player, may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play of a controlled game.

(14) "Licensee" means a person having a valid license.

(15) "Organization chart" means a chart that identifies the names and titles of all owners, as defined in Section 12220, supervisors, and any persons having significant influence over the operation of gambling business; the percentage of ownership, if any, held by each identified individual or entity; the reporting relationship for each identified individual or entity; and the job title and number of persons in each of the job titles that report to each individual or entity identified on the organization chart.

(16) "Other employee" means an individual employed by a primary owner who is not authorized to serve as a player. "Other employee" does not include any owner, any supervisor, or any officer or director of a primary owner that is a corporation. An individual registered or licensed as an "other employee" may not function as a player unless and until that individual applies for and obtains registration or licensure as a player.

(17) "Owner" includes all of the following:

(A) A sole proprietor, corporation, partnership, or other business entity that provides or proposes to conduct a gambling business.

(B) Any individual specified in Business and Professions Code section 19852, subdivisions (a) through and including (h), and

(C) Any funding source.

(18) "Player" means an individual employed by or an independent contractor engaged by a gambling business to participate in the play of any controlled game in a gambling establishment.

(19) "Playing Book" means a record documenting each session of play by an individual player.

(20) "Primary Owner" means the owner specified in subparagraph (A) of paragraph (17) of this subsection.

(21) "Rebate" means a partial return by an authorized player of chips or money to a patron who has lost the chips or money to the authorized player through play in a controlled game at a gambling establishment.

(22) "Registrant" means a person having a valid registration.

(23) "Registration" means a registration issued by the Commission pursuant to this chapter.

(A) There are four registration categories entitling the holder to participate in the operation of a gambling business: primary owner, owner, supervisor, and player.

(B) All other employees of the primary owner who are present in the gambling establishment during the operation of the gambling business shall be registered as "other employee," and shall be required to submit an application, which application shall be approved or denied based upon the same criteria that apply to a player.

(C) A primary owner and an owner may also perform the functions of a supervisor or player, and the holder of a supervisor's registration may also perform the functions of a player. No registrant, other than an owner, supervisor, or player, may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play as part of the operation of a gambling business.

(24) "Reinstatement Badge" means a badge issued by the Commission to a player, a supervisor, or an "other employee" pursuant to Section 12220.6 which authorizes an individual registrant or licensee who has ceased to be employed by a primary owner to return to work for that primary owner.

(25) "Session of play" as used in Section 12220.13 ("Playing Book") means a continuous work shift performed by a player.

(26) "Supervisor" means an individual who, in addition to any supervisory responsibilities, has authority, on behalf of the primary owner, to provide or direct the distribution of currency, chips, or other wagering instruments to affiliated registrants or licensees who are authorized to play.

(27) "Supplemental information package" means all of the documentation and deposits required by each of the following forms (which are hereby incorporated by reference) to be submitted to the Commission in response to a summons issued by the Bureau pursuant to Section 12225.1.

(A) Owners, as defined in Section 12220, that are a natural person shall complete the form Level III Supplemental Information-Individual (BGC-APP-034A (Rev. 11/07)) for a level III investigation.

(B) Owners, as defined in Section 12220, that are not a natural person shall complete the form Level III Supplemental Information-Business (BGC-APP-034B (Rev. 11/07)) for a level III investigation.

(C) Supervisors, as defined in Section 12220, shall complete the form Level II Supplemental Information (BGC-APP-033 (Rev. 11/07)) for a level II investigation.

(D) Other employees, independent contractors, and players shall complete the form Level I Supplemental Information (BGC-APP-032 (Rev. 11/07)) for a level I investigation.

(28) "Transfer Badge" means a badge issued by the Commission pursuant to Section 12220.6 which authorizes an individual registrant or licensee to work as an employee or independent contractor for a subsequent primary owner after having ceased to work for an initial primary owner.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19805 and 19853(a)(3), Business and Professions Code.

HISTORY

1. New chapter 2.2 (sections 12220-12232) and section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New chapter 2.2 (sections 12220-12232) and section refiled 3-5-2004 as an emergency, including amendment of subsection (b)(1); operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. New chapter 2.2 (sections 12220-12237) and section refiled 7-6-2004 as an emergency, including new article 1 (sections 12220-12220.23), amendment of chapter heading and further amendment section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Amendment of subsection (a) and repealer and reservation of subsections (b)(5)-(b)(7), (b)(9) and (b)(12) filed 1-25-2006; operative 2-24-2006 (Register 2006, No. 4).
7. Change without regulatory effect amending subsection (a), repealing and reserving subsection (b)(8) and amending subsections (b)(10), (b)(10)(G), (b)(11), (b)(13), (b)(15), (b)(17)(B) and (b)(27)-(b)(27)(D) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.1. Certificate.

(a) The Commission shall issue a registration or license certificate with an expiration date, as applicable, to each primary owner.

(b) The Commission shall endorse upon each certificate the names of all other owners affiliated with the primary owner.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19805 and 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by

11-3-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7-6-2004 order, including amendment of subsection (a), transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12220.3. Badge.

(a) All individuals registered or licensed as primary owners, owners, supervisors, players, or other employees of the primary owner shall wear in a prominently visible location a numbered badge issued by the Commission when present in a gambling establishment during the operation of the gambling business.

(b) A badge authorizing play in a controlled game shall be of a distinctly different color than a badge that identifies a registrant or licensee, but does not authorize play. If an individual ceases to be employed by or affiliated with a particular primary owner, that individual shall surrender his or her badge to the primary owner. The primary owner shall notify the Commission and the Bureau in writing within ten (10) days of the change in status using Change in Status Form for a Gambling Business Registration (CGCC-541 (Rev. 09/04)), which is hereby incorporated by reference; with this form, the primary owner shall submit the registrant's or licensee's badge.

(c) The words "GAMBLING BUSINESS PLAYER REGISTRANT," "NON-PLAYER GAMBLING BUSINESS REGISTRANT," "GAMBLING BUSINESS PLAYER LICENSEE," OR "NON-PLAYER GAMBLING BUSINESS LICENSEE" in capital letters shall be prominently displayed on the front of the badge. The first name of the registrant or licensee shall appear on the front of the badge. The full name of the registrant or licensee shall be printed on the reverse side of the badge, together with the registrant's or licensee's category of registration or licensing as an owner, supervisor, player, or other employee.

(d) On the front of the badge, there shall be displayed the picture of the registrant or licensee submitted with the application, the badge number, and expiration date. On the front of the badge, there shall be displayed the name of the primary owner employing the registrant or licensee, which shall be the fictitious business name, if any, established pursuant to Chapter 5 (commencing with section 17900) of Part 3 of Division 7 of the Business and Professions Code.

(e) Upon renewal of each registration and upon issuance of each registration or license, authorized players shall be issued a badge of one color; individuals not authorized to play shall be issued a badge of a distinctly different color. Any non-player badge issued prior to July 1, 2004, shall be re-issued upon renewal pursuant to subsection (b), so that each registrant receives either a player or non-player badge.

(f) An individual registered or licensed as a player with a particular primary owner shall apply for and obtain a new badge pursuant to Section 12220.6 before beginning to work for an additional or different primary owner.

(g) Registrations, licenses, and badges are specific to the primary owner. A gambling business cannot be operated without first applying for and obtaining a registration, license, or badge.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19805 and 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (b) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.5. Replacement of Badge.

(a) Upon submission of a request, the Executive Director shall issue a replacement badge if all of the following conditions are met:

- (1) The requester has a current valid registration or license.

(2) The request is complete and has been submitted on the form Request for Replacement Gambling Business Badge (CGCC-538, New 06/04), which is hereby incorporated by reference.

(3) The request has supplied all of the following to the Commission:

(A) A nonrefundable twenty-five dollar (\$25) fee payable to the Commission.

(B) The category of the position and information concerning the primary owner for which the replacement badge is requested: the name of the primary owner, mailing address, voice telephone number, facsimile number (if any), and email address (if any).

(C) A statement under penalty of perjury that a replacement badge is needed due to a name change or to loss or destruction of the originally issued badge.

(b) A replacement badge issued pursuant to this section shall be valid during the unexpired term of the previously issued registration or license.

(c) Upon issuance of the replacement badge, the previously issued badge for that gambling business shall become void and shall not be used.

(d) Replacement badges shall be issued by the Commission within seven (7) days of receipt of a completed request.

NOTE: Authority cited: Sections 19811, 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12220.6. Transfer or Reinstatement of Player Registration or License; Issuance of Additional Badge.

(a) Upon submission of a request, the Executive Director shall issue a player transfer badge, reinstatement badge, or additional badge if all of the following conditions are met:

(1) The requester has a currently valid registration or license.

(2) The request is complete and has been submitted on the form Request for an Additional/Transfer/Reinstatement of Gambling Business Registration/License (CGCC-539, Rev. 09/04), which is hereby incorporated by reference.

(3) The requester has supplied all of the following to the Commission:

(A) A nonrefundable one hundred and twenty-five dollar (\$125) fee payable to the Commission.

(B) The names as applicable of the current and future primary owner, or previous owner or additional owner, mailing address, voice telephone number, facsimile number (if any), and email address (if any).

(b) A badge issued pursuant to this section shall be valid during the unexpired term of the previously issued registration or license.

(c) Upon issuance of the transfer badge, the previously issued badge shall become void and shall not be used.

(d) Transfer, additional, and reinstatement badges shall be issued by the Commission within seven (7) days of receipt of a complete request.

NOTE: Authority cited: Sections 19811, 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19805 and 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section heading and section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12220.13. Playing Book.

(a) The primary owner shall be responsible for assuring that its players maintain accurate, complete, and up-to-date playing books for all sessions of play worked in conformity with regulations of the Commission. The information in the playing-book record shall be transferred to the

primary owner, or a supervisor designated by the primary owner at the end of each session of play. The primary owner shall maintain this information in English at a single location in the State of California, and shall maintain the original playing book records in the State of California for at least five (5) years. The location or locations where the records of this information and the original playing book records are maintained, and any change therein, shall be disclosed to the Commission and Bureau by written notice, mailed or delivered within five (5) business days after establishing or changing such a location.

(b) The playing book shall be prepared and maintained as follows:

(1) The playing book form shall be reviewed and approved or disapproved by the Bureau during the review of the primary owner's registration or license application.

(2) Each form in the playing book shall be recorded in ink and include, but not be limited to, the following information:

(A) Sequential numbers. Any unused form shall be voided and maintained in the playing book.

(B) The name of the gambling establishment where play occurred.

(C) The date and approximate time when play occurred.

(D) Beginning and ending balances.

(E) Individual identification of all fills and credits affecting the balance.

(F) The printed full name and badge number of the player, which includes owners, supervisors, and/or players.

(G) The table number assigned by the gambling establishment.

(H) The specific name of the Bureau-approved gaming activity.

(I) The name of the primary owner.

(3) The form for each session of play shall be time-stamped, dated, and signed under penalty of perjury by the person who prepared it and shall include a declaration in the following form: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19805 and 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (b)(1) and (b)(2)(H) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.14. Organization Chart and Employee Report.

(a) No later than September 1, 2004, each registered or licensed primary owner shall submit a current organization chart and a listing of all employees and independent contractors to the Bureau and the Commission. The listing of employees and independent contractors shall be submitted on the form Gambling Business Employee and Independent Contractor Report (CGCC-540 (Rev. 09/04)), which is hereby incorporated by reference.

(b) Upon renewal of the registration or license, each registered or licensed primary owner shall submit an updated organization chart and a listing of all employees and independent contractors to the Bureau and the Commission.

(c) The primary owner shall notify the Bureau and the Commission in writing within ten (10) days of any change to its ownership structure.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.15. Transfers and Sales.

(a) If any registered or licensed owner wishes to sell in whole or in part any ownership interest to any unregistered or unlicensed person, the owner must first notify the Commission in writing to request approval of the transaction. The transferee must apply for and be approved as a registrant or licensee. Evidence of the transferor's agreement to transfer the interest and, if applicable, the proposed articles of incorporation, shall accompany the application for registration or licensing.

(b) The effective date of the sale shall be at least 90 days after receipt of the application, or such other shorter time period as shall be set by the Executive Director with the agreement of the applicant.

(c) Evidence of final execution of a transfer or sale of an interest to a registered or licensed person shall be submitted in writing to the Commission within ten (10) days of the final transaction.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12220.16. Inspections and Investigations.

(a) When requested by a representative of the Bureau, a registrant or licensee shall immediately permit the Bureau representative, in accordance with the request, to inspect, copy, or audit all requested documents, papers, books, and other records of the registrant or licensee related to the gambling business. If the records are maintained in electronic form and the registrant or licensee is requested to do so, the registrant or licensee shall provide a printed copy in English pursuant to this section within 24 hours of the request.

(b) If requested in writing by the Executive Director, the Bureau shall conduct an inspection or investigation of a registrant or a licensee. Within 30 days of receipt of the request, the Bureau shall advise the Executive Director in writing of the status of the inspection or investigation and shall also provide an estimated date on which the inspection or investigation may reasonably be expected to be concluded. Upon completion of the inspection or investigation, the Bureau shall provide a final written report to the Executive Director.

(c) Nothing in this chapter precludes Commission staff from carrying out their duties under applicable statutes and regulations.

(d) All records required by this chapter shall be maintained in English, in California, for at least five (5) years.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of subsection (d), transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)-(b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.17. Emergency Orders.

Registrants and licensees under this chapter shall be subject to emergency orders under Business and Professions Code section 19931.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12220.18. Revocation.

The Commission may revoke a registration or license, upon any of the following grounds, after a hearing conducted pursuant to the same procedures applicable to the revocation of a gambling establishment license:

- (a) The registrant or licensee committed, attempted to commit, or conspired to commit any acts prohibited by the Act or this chapter.
- (b) Any act or omission by the registrant that would disqualify the registrant from obtaining registration under this chapter. Any act or omission by the licensee that would disqualify the licensee from obtaining licensing under this chapter.
- (c) The registrant or licensee engaged in any dishonest, fraudulent, or unfairly deceptive activities in connection with controlled gambling, including any violation of laws related to cheating.
- (d) The registrant or licensee failed or refused to comply with the requirements of Section 12200.16 (Inspections and Investigations).
- (e) The registrant or licensee failed or refused to comply with the requirements of Section 12200.14 (Organization Chart and Employee Report).
- (f) The registrant or licensee concealed or refused to disclose any material fact in any inquiry by the Bureau or the Commission.
- (g) The registrant or licensee committed, attempted, or conspired to commit any embezzlement or larceny against a gambling business registrant or licensee or proposition player registrant or against a holder of a state gambling license, or on the premises of a gambling establishment.
- (h) The registrant or licensee has been lawfully excluded from being present upon the premises of any licensed gambling establishment for any reason relating to cheating or any violation of the Act by the registrant or licensee.
- (i) The registrant or licensee buys or sells chips other than to or from the house, except for exchanging with a patron chips of one denomination for chips of another denomination.
- (j) The registrant or licensee lends money or chips to gambling establishment patrons or proposition players, except for exchanging with a patron chips of one denomination for chips of another denomination.
- (k) The registrant or licensee made wagers that were not specifically authorized by the game rules approved by the Bureau.
- (l) Any owner knowingly permitted one or more of the owner's supervisors or players to commit any act described in subsections (a) through (k), inclusive.
- (m) Any owner knew, or failed to implement reasonable oversight procedures that would have apprised the owner, that one or more of the registrants or licensees was in violation of one or more provisions of this chapter or of the Act and failed or refused to take action to prevent the recurrence of the violation or violations.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (f), (h) and (k)-(m) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.20. Annual Fee.

- (a)(1) No later than September 1 of each year, beginning September 1, 2004, each registered primary owner shall submit to the Commission

the annual fee set forth in subsection (c) of this section, based on the total number of registrations or licenses affiliated with the primary owner on the immediately preceding August 1. The payment due September 1 of each year shall be based on the total number of registrations affiliated with the primary owner on August 1 of that same year.

(2) For each licensed primary owner, the annual fee shall be assessed based upon the total number of licenses affiliated the primary owner 120 days prior to the renewal due date.

(b) Within 30 days of approval of any request to convert a registration to a license, the Commission shall notify the licensee of any additional fees owed for the term of the license granted, allowing pro rata credit on a monthly basis for any annual fee paid in connection with a registration that has not expired.

(c) The annual fee shall be computed as follows:

(1) Beginning September 1, 2004, each primary owner shall pay the annual sum of two thousand fifty dollars (\$2050) per registrant or licensee. This fee shall be retroactive to September 1, 2004. Any overpayment of fees previously paid that cannot be applied against an installment payment that is due shall be credited against the following year's annual fee obligation, unless the primary owner no later than February 1, 2005 submits a written refund request to the Executive Director.

(2) Beginning September 1, 2005, each primary owner shall pay the annual sum of two thousand three hundred dollars (\$2300) per registrant or licensee, less any applicable credit that may apply from paragraph (1) of this subsection.

(3) Beginning September 1, 2006, and thereafter, each primary owner shall pay the annual sum of two thousand eight hundred dollars (\$2800) per registrant or licensee, less any applicable credit that may apply from paragraph (1) of this subsection.

(d)(1) The annual fee for each registered primary owner may be paid in installments. The primary owner must submit a written request to the Executive Director to make installment payments prior to August 1 of that same year. Upon approval by the Executive Director, installment payments submitted prior to licensure shall be made as follows: one-third of the annual fee to be submitted no later than September 1, one-third no later than December 1, and the balance no later than March 1.

(2) The annual fee for each licensed primary owner may be paid in installments. The primary owner must submit a written request to the Executive Director to make installment payments 120 days prior to the expiration of the license. Upon approval by the Executive Director, installment payments submitted after conversion to licensure shall be made as follows: one-third of the annual fee to be submitted prior to issuance of the license, one-third to be submitted three months thereafter, and one-third to be submitted six (6) months thereafter.

(e) Refunds shall not be available in the event of a subsequent decrease in the number of registrants or licensees upon which the annual fee payment was based.

(f)(1) Following assessment of the annual fee, if the primary owner increases the number of its registrants or licensees above the number upon which the annual fee assessment was based, the primary owner shall submit to the Commission both the required application fee for the additional registrants or licensees and the additional per player fee set forth in subsection (c) of this section. No new badges shall be issued until the Commission has received all fees required by this subsection.

(2) Annual fees due under this subsection shall be prorated on a monthly basis.

(3) Annual fees due under this subsection may be paid in installments, on the conditions that the installment payment request is submitted in writing, that one-third of the fees are paid with the application for additional registrants or licensees, and that two subsequent equal payments are paid at reasonable intervals prior to expiration of the applicable term, subject to the approval of the Executive Director.

(g) No renewal application shall be approved by the Commission until any delinquent annual fees have been paid in full.

NOTE: Authority cited: Sections 19801, 19811, 19823, 19824, 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19951, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (c)(1)-(3) and (f)(1)-(3) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.20A. Annual Fee as Applied to Those Registered or Licensed Under Chapter 2.1.

(a) A primary owner who is currently registered or licensed under Chapter 2.1 may also operate as a gambling business and not be required to pay annual fees under Chapter 2.2 if the following conditions are satisfied:

(1) The primary owner has paid all Chapter 2.1 annual fees due on the date of the Chapter 2.2 application.

(2) The primary owner files an application for registration or licensure under this chapter and pays the required five hundred dollar (\$500) application fee.

(3) Each registrant or licensee affiliated with the primary owner under Chapter 2.1 who wishes to be registered or licensed under Chapter 2.2 pays a one hundred and twenty-five dollar (\$125) fee for this Chapter 2.2 registration or license.

(b) If an employee works solely as part of a gambling business and does not provide services under Chapter 2.1, then the primary owner shall pay the per registrant or licensee annual fee assessment for that employee pursuant to Section 12220.20.

(c) If a background investigation of a person has already been performed under Chapter 2.1, and if that person's registration or licensure under Chapter 2.1 is current, then a second background investigation shall not be required under this chapter.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Change without regulatory effect amending subsections (a)(2) and (c) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.21. Compliance.

(a) Registrants and licensees shall comply with game rules approved by the Bureau, including but not limited to the rules regarding player-dealer rotation and table wagering.

(b) Only an authorized player may possess, direct, or otherwise control currency, chips, or other wagering instruments used for play in the operation of the gambling business.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of subsection (a), transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsection (a) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12220.23. Exclusion.

(a) In order to promote the purposes of the Act to provide for effective regulation of gambling enterprises, owner-licensees of gambling establishments shall notify the Commission and Bureau of, and may exclude

from the gambling establishment, any person that the owner-licensee reasonably believes is conducting a gambling business within the gambling establishment without having been registered under this chapter. An owner-licensee acting under this section shall notify the Commission and Bureau in writing of any such unregistered person and any such exclusion, including the identity of the excluded individuals and entity if known, within ten (10) business days following the exclusion. Upon receiving such notice of an unregistered person, the Commission shall notify the person in writing of the registration requirement of this chapter and shall notify all owner-licensees of the name of the unregistered person, if known and may condition any subsequent registration of the person under this chapter or Chapter 2.1 of this division upon a 60 to 90 day suspension of registration or payment of a civil penalty under Business and Professions Code section 19930(c), or both.

(b) An owner-licensee of a gambling establishment may exclude any registered or licensed gambling business and shall notify the Commission and Bureau in writing within five (5) days following the exclusion.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19930, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)-(b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 2. Registration

§ 12220.25. Transition to Licensing.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New article 2 (sections 12220.25-12225) and section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including repealer of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

§ 12221. Registration.

(a) No person may engage in a gambling business as an owner or as an employee or independent contractor of an owner, nor may any person obtain a badge as required by Section 12220.3 without a current valid registration issued by the Commission. Persons registered to provide proposition player services under Chapter 2.1 (commencing with Section 12200) of this title are not required to register under this chapter to provide proposition player services pursuant to one or more proposition player contracts approved by the Bureau pursuant to Section 12200.9 of this title.

(b) Registration shall be issued for a period of one (1) year to owners and supervisors, and for a period of two (2) years to players and other employees.

(c) Registration under this article or its predecessor shall not create any vested right to licensing under Article 3 of this chapter or any successor provision.

(d) If a primary owner is a corporation, partnership, or other business entity, each owner and individual having a relationship to that entity specified in Business and Professions Code section 19852, subdivisions (a) through (h), inclusive, shall individually apply for and obtain registration as an owner listed on the business entity's registration certificate.

(e) Any application for registration of any person, other than as the primary owner, shall designate the primary owner or owners that will employ the applicant or with whom the applicant otherwise will be affiliated.

(f) If the application is for registration as a supervisor, player, or other employee, the primary owner that will employ the applicant shall be currently registered under this chapter.

(g) Registration is non-transferable.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency, including amendment of subsections (a) and (c); operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 7-6-2004 as an emergency, including further amendment of section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Change without regulatory effect amending subsections (a) and (c)-(d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12222. Application for Registration.

(a) The application for registration shall designate whether registration is requested as a primary owner, other owner, or employee or independent contractor of the primary owner. The application shall be signed by both the individual applicant and the designated agent, or, if the applicant is a business entity, by the chief executive officer or other designated officer of the business entity.

(b) An application for registration shall include all of the following:

- (1) Payment of a nonrefundable application fee in the amount of five hundred dollars (\$500).
- (2) A completed Application for Gambling Business Registration (CGCC-535 (Rev. 09/04)), which is hereby incorporated by reference.
- (3) A properly completed Request for Live Scan Service (California Department of Justice Form BCII 8016, rev. 4/01) of an applicant that is an individual, confirming that the applicant's fingerprints have been submitted to the BCH for an automated background check and response.
- (4) Two 2x2 inch color passport-style photographs of an applicant that is an individual taken no more than one (1) year before submission of the application to the Commission.

(c) An applicant that is an individual shall complete and submit the form Gambling Business Registration Supplemental Information (CGCC-536 (Rev. 06/04)), which is hereby incorporated by reference.

(d) An applicant for registration shall make full and true disclosure of all information to the Commission and Bureau as required for the application and as requested by the Commission or Bureau to carry out the policies of this state relating to controlled gambling.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19951(a), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency, including amendment of subsections (b)(2) and (c); operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 7-6-2004 as an emergency, including further amendment of section; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Change without regulatory effect amending subsection (b)(3) filed 12-26-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).
7. Change without regulatory effect amending subsections (b)(2) and (c)-(d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12223. Processing of Applications for Initial and Renewal Registration.

(a) The Executive Director shall notify the applicant in writing within twenty (20) days of receiving the application, that the application or resubmitted application is complete and accepted for filing, or that the application or resubmitted application is deficient. If an application for registration is incomplete, the Executive Director shall request in writing any information needed in order to complete the application. The applicant shall be permitted 30 days in which to furnish the information. If the applicant fails to respond to the request, the application shall be deemed abandoned and no further action will be taken on it.

(b) Upon determination that an application for registration is complete, the application shall be processed within 60 days and the Executive Director shall either issue the registration and the badge applied for or shall notify the applicant of denial and the grounds therefor under Section 12224.

(c) If the applicant submits a request for withdrawal of his or her application to the Commission, the application shall be deemed abandoned and no further action will be taken on it.

(d) The Commission shall provide written notice of abandonment of an application to the applicant. If the application is for registration as other than the primary owner, the Commission shall also provide written notice of abandonment of the application to the primary owner.

(e) Nothing in this chapter shall require the Commission or Bureau to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained as confidential. Nothing in this chapter shall require the Commission or Bureau to divulge any information that might reveal the identity of any source of information or jeopardize the safety of any person.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency, including amendment of subsection (a) and NOTE; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-6-2004 order, including amendment of section heading and section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Change without regulatory effect amending subsection (e) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12224. Ineligibility for Registration.

An applicant shall be ineligible for registration for any of the following causes:

- (a) An individual applicant is under the age of 21.
- (b) The applicant has been convicted of any felony, including a conviction in a court of the United States or any other state of an offense that is classified as a felony by the laws of this state.
- (c) The applicant has, within the ten year period immediately preceding the submission of the application, been convicted of a misdemeanor

involving a firearm or other deadly weapon, gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) or Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, violations of the Act, or dishonesty or moral turpitude, not including convictions which have been expunged or dismissed as provided by law.

(d) The applicant has been subject to a final administrative or judicial adjudication revoking a registration under this chapter or a state gambling license, key employee license, work permit or finding of suitability or has had an application denied under this chapter or the Act.

(e) The applicant would be ineligible for a state gambling license under any of the criteria set forth in Business and Professions Code section 19859, subdivisions (b), (e) or (f).

(f) The applicant would be ineligible for a state gambling license under Business and Professions Code section 19858.

(g) The applicant is ineligible based on any other provision of law.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
6. Change without regulatory effect amending subsections (c)-(d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12225. Cancellation of Registration.

(a) Any registration issued in accordance with this chapter shall be subject to cancellation pursuant to this section. A registration shall be cancelled if the Commission determines after a noticed hearing that the registrant is ineligible for registration, has failed in the application for registration to reveal any fact material to the holder's qualification for registration, or has supplied information in the registration application that is untrue or misleading as to a material fact pertaining to the criteria for issuance of registration.

(b) If the Commission finds that any of the circumstances set forth in subsection (a) apply, then the Executive Director shall immediately do all of the following:

(1) Provide written notice to the registrant and the Bureau of the cancellation of the registration and the grounds thereof, and provide written notice of the cancellation to the primary owner, if the registrant is not the primary owner and to all gambling establishments.

(2) Notify the registrant, if an individual, that he or she is required to surrender the registrant's badge to the Commission not more than ten days following the date that the notice of the cancellation was mailed or such greater time as is authorized by the Executive Director.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).

3. New section refiled 3-5-2004 as an emergency, including further amendment of section; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 7-6-2004 order, including amendment of subsection (a), transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

6. Change without regulatory effect amending subsection (b)(1) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12225.1. Transition to Licensing.

(a) The Bureau shall summon persons registered as primary owners, owners, supervisors, players, and other employees for the purpose of applying for licenses under this chapter. The Bureau shall summon primary owners, owners, supervisors, players, and other employees as expeditiously as possible in light of available program resources. The registration of any registrant that fails or refuses to submit a Request for Conversion of a Gambling Business Registration to a License (CGCC-537 (Rev. 04/08)), which is hereby incorporated by reference, including any fees to the Commission within 30 days of receiving a summons from the Bureau shall expire by operation of law on the following day. Prior to and during review of a request to convert a registration to a license, a registration shall remain valid and may be renewed by the registrant as necessary, upon application and approval of renewal of registration.

(b) If the registration expires by operation of law, the former registrant shall submit a new request to convert a registration to a license and a new nonrefundable application fee.

(c) The transition from registration to licensing for applications approved prior to April 30, 2004, shall be completed no later than July 1, 2008.

(d) Except as provided for in subsection (b), a request to convert a registration to a license shall require only payment of a sum of money that in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated investigation and processing costs, in accordance with Business and Professions Code section 19867.

(e) If a license is issued, it will expire as provided in Section 12237 (Term of License).

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19867, Business and Professions Code.

HISTORY

1. New section filed 12-20-2004; operative 12-20-2004 (Register 2004, No. 52).
2. Amendment of subsection (c) filed 9-4-2007; operative 9-4-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 36).
3. Change without regulatory effect amending subsections (a) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12226. Badge.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11-6-2003 as an emergency; operative 11-6-2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3-5-2004 as an emergency, including further amendment of section; operative 3-5-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-6-2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7-6-2004; operative 7-6-2004 (Register 2004, No. 28).

§ 12227. Transfers and Sales.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12228. Inspections.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12229. Compliance.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12230. Revocation.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12231. Emergency Orders.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19931, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.

4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

§ 12232. Exclusion.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19931, Business and Professions Code.

HISTORY

1. New section filed 11–6–2003 as an emergency; operative 11–6–2003 (Register 2003, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–5–2004 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending NOTE filed 2–5–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 6).
3. New section refiled 3–5–2004 as an emergency; operative 3–5–2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
4. Repealer filed 7–6–2004; operative 7–6–2004 (Register 2004, No. 28).

Article 3. Licensing**§ 12233. Request to Convert Registration to License.**

(a) A request to convert a registration to a license shall be submitted to the Commission only in response to a written summons from the Bureau to a primary owner pursuant to Section 12225.1. Each primary owner's request shall be accompanied by the requests of all affiliated owners, supervisors, players, and other employees.

(b) The request to convert a registration to a license shall designate whether the license is requested as a primary owner, owner, supervisor, player, or other employee. The request shall be signed by the individual requester or, if the requester is a business entity, by the chief executive officer or other designated officer of the business entity.

(c) The request to convert a registration to a license shall include all of the following:

(1) A completed Request for Conversion of a Gambling Business Registration to a License (CGCC–537 (Rev. 04/08)) referenced in Section 12225.1.

(2) Two 2x2 inch color passport-style photographs of a requester that is an individual taken no more than one year before submission of the request to the Commission.

(3) The supplemental information package as defined in Section 12220.

(4) A sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated investigation and processing costs, in accordance with Business and Professions Code section 19867.

(5) A copy of the summons issued by the Bureau.

(d) Nothing in this chapter shall require the Commission or Bureau to divulge to the requester any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained as confidential. Nothing in this chapter shall require the Commission or Bureau to divulge any information that might reveal the identity of any source of information or jeopardize the safety of any person.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19867, Business and Professions Code.

HISTORY

1. New section filed 7–6–2004 as an emergency; operative 7–6–2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–6–2004 order, including amendment of section and NOTE, transmitted to OAL 11–3–2004 and filed 12–20–2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a), (c)(1) and (c)(4)–(d) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12234. Withdrawal of Request to Convert Registration to License.

(a) A request for withdrawal of a request to convert a registration to a license may be made at any time prior to final action upon the request by

the Chief by the filing of a written request to withdraw with the Commission. For the purposes of this section, final action by the Bureau means a final determination by the Chief regarding his or her recommendation on the request to the Commission.

(b) The Commission shall not grant the request unless the requester has established that withdrawal of the request would be consistent with the public interest and the policies of the Act and this chapter. If a request for withdrawal is denied, the Bureau may go forward with its investigation and make a recommendation to the Commission upon the request, and the Commission may act upon the request to convert as if no request for withdrawal had been made.

(c) If a request for withdrawal is granted with prejudice, the requester thereafter shall be ineligible to renew its request until the expiration of one (1) year from the date of the withdrawal. Unless the Commission otherwise directs, no payment relating to any request is refundable by reason of withdrawal of request.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19869, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (a)-(b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12235. Processing Times — Request to Convert Registration to License.

A request to convert a registration to license submitted pursuant to this chapter shall be processed within the following timeframes:

(a) The maximum time within which the Commission shall notify the applicant in writing that a request or a resubmitted request is complete and accepted for initial processing by the Commission, or that a request or a resubmitted request is deficient and identifying what specific additional information is required, is 20 days after receipt of the request. For the purposes of this section, "request" means the form Request for Conversion of a Gambling Business Registration to a License (CGCC-537 (Rev. 04/08)) referenced in Section 12225.1. A request is not complete unless accompanied by both a copy of the summons from the Bureau setting a deadline for filing the request with the Commission and the supplemental information package required by Section 12233(c)(3) for review by the Bureau pursuant to subsection (c) for persons affiliated with the primary owner to whom the summons was addressed. The Commission shall not review the supplemental information for completeness.

(b) A request and the supplemental information package shall be forwarded by the Commission to the Bureau for processing within ten (10) days of the date that the Commission determines that the request is complete.

(c) The Bureau shall review the supplemental information package submitted for completeness and notify the applicant of any deficiencies in the supplemental information package, or that the supplemental information package is complete, within 45 days of the date that the request and supplemental information package are received by the Bureau from the Commission. Notwithstanding this subsection, subsequent to acceptance of the supplemental information package as complete, the Bureau may, pursuant to Business and Professions Code section 19866, require the requester to submit additional information.

(d) Pursuant to Business and Professions Code section 19868, the Bureau shall, to the extent practicable, submit its recommendation to the Commission within 180 days after the date the Bureau is in receipt of both the completed request pursuant to subsection (b) and the completed supplemental information package pursuant to subsection (c). If the Bureau has not concluded its investigation within 180 days, then it shall inform the applicant and the Commission in writing of the status of the investiga-

tion and shall also provide the applicant and the Commission with an estimated date on which the investigation may reasonably be expected to be concluded.

(e) The Commission shall grant or deny the request within 120 days after receipt of the final written recommendation of the Bureau concerning the request, except that the Commission may notify the applicant in writing that additional time, not to exceed 30 days, is needed.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3) and 19868, Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section and NOTE, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12236. Ineligibility for Licensing.

A requester shall be ineligible for licensing for any of the following causes:

(a) An individual applicant is under the age of 21.

(b) The requester has been convicted of any felony, including a conviction in a court of the United States or any other state of an offense that is classified as a felony by the laws of this state.

(c) The requester has, within the ten (10) year period immediately preceding the submission of the request to convert, been convicted of a misdemeanor involving a firearm or other deadly weapon, gaming or gaming-related activities prohibited by Chapter 9 (commencing with section 319) or Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, violations of the Act, or dishonesty or moral turpitude, unless the applicant has been granted relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45, provided, however, that the granting of relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45 shall not constitute a limitation on the discretion of the Commission.

(d) If the request to convert is for licensing as an owner, supervisor, or player, the requester has been subject to a final administrative or judicial adjudication revoking a registration or license under this chapter or a state gambling license, key employee license, work permit or finding of suitability or has had an application denied under this chapter or the Act.

(e) The requester has failed to meet the requirements of Business and Professions Code sections 19856 or 19857.

(f) The requester would be ineligible for a state gambling license under any of the criteria set forth in Business and Professions Code section 19859, subdivisions (b), (e), or (f).

(g) The requester would be ineligible for a state gambling license under Business and Professions Code section 19858.

(h) The applicant is ineligible based on any other provision of law.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).
3. Change without regulatory effect amending subsections (c)-(d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12237. Term of License.

(a) All initial licenses shall be issued for a period of two (2) years.

(b) Due to nonrecurring workload problems associated with the processing of the first round of requests to convert registrations to licenses,

all other initial licenses that are granted within three (3) years of the effective date of these regulations shall be issued for a period of two (2) years.

(c) Beginning July 1, 2007, all initial and renewal licenses shall be issued for a period of one (1) year, except for player and other employee licenses, which shall be issued for a period of two (2) years.

NOTE: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Section 19853(a)(3), Business and Professions Code.

HISTORY

1. New section filed 7-6-2004 as an emergency; operative 7-6-2004 (Register 2004, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-3-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-6-2004 order, including amendment of section, transmitted to OAL 11-3-2004 and filed 12-20-2004 (Register 2004, No. 52).

Chapter 3. Licenses

§ 12250. License Renewals.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19876, 19851 and 19951, Business and Professions Code.

HISTORY

1. New chapter 3 (section 12250) and section filed 8-25-2003 as an emergency; operative 8-25-2003 (Register 2003, No. 35). A Certificate of Compliance must be transmitted to OAL by 12-23-2003 or emergency language will be repealed by operation of law on the following day.
2. New chapter 3 (section 12250) and section refilled 12-15-2003 as an emergency; operative 12-15-2003 (Register 2003, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-13-2004 or emergency language will be repealed by operation of law on the following day.
3. New chapter 3 (section 12250) and section refilled 4-8-2004 as an emergency; operative 4-13-2004 (Register 2004, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-11-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4-8-2004 order, including amendment of section and NOTE, transmitted to OAL 8-9-2004 and filed 9-20-2004 (Register 2004, No. 39).
5. Change without regulatory effect renumbering former chapter 3 (sections 12250-12272) to new chapter 6 (sections 12342-12345) and renumbering former section 12250 to new section 12344 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).

§ 12270. Initial and Renewal License Applications; Required Forms.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19850, 19851, 19852, 19854, 19855, 19856, 19857, 19864, 19865, 19866, 19867, 19876, 19880, 19881, 19883, 19890, 19893, 19951 and 19982, Business and Professions Code.

HISTORY

1. New section filed 10-30-2003 as an emergency; operative 10-30-2003 (Register 2003, No. 48). A Certificate of Compliance must be transmitted to OAL by 2-27-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refilled 2-27-2004 as an emergency; operative 2-27-2004 (Register 2004, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-28-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refilled 6-23-2004 as an emergency, including amendment of subsections (a)(8) and (a)(25); operative 6-23-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-21-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refilled 10-18-2004 as an emergency; operative 10-21-2004 (Register 2004, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-2005 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-18-2004 order, including amendment of section, transmitted to OAL 12-16-2004 and filed 1-28-2005 (Register 2005, No. 4).
6. Change without regulatory effect renumbering former section 12270 to new section 12342 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).

§ 12271. Processing Times—Initial Applications.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19841 and 19868, Business and Professions Code.

HISTORY

1. New section filed 10-30-2003 as an emergency; operative 10-30-2003 (Register 2003, No. 48). A Certificate of Compliance must be transmitted to OAL by 2-27-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refilled 2-27-2004 as an emergency, including repealer and new subsection (b)(2), new subsection (b)(3) and amendment of NOTE; operative 2-27-2004 (Register 2004, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-28-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refilled 6-23-2004 as an emergency; operative 6-23-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-21-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refilled 10-18-2004 as an emergency; operative 10-21-2004 (Register 2004, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-2005 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-18-2004 order, including amendment of subsection (a)(1), transmitted to OAL 12-16-2004 and filed 1-28-2005 (Register 2005, No. 4).
6. Change without regulatory effect renumbering former section 12271 to new section 12343 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).

§ 12272. Processing Times—Renewal Applications.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19868 and 19876, Business and Professions Code.

HISTORY

1. New section filed 10-30-2003 as an emergency; operative 10-30-2003 (Register 2003, No. 48). A Certificate of Compliance must be transmitted to OAL by 2-27-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refilled 2-27-2004 as an emergency, including repealer and new subsection (b)(2), new subsection (b)(3) and amendment of NOTE; operative 2-27-2004 (Register 2004, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-28-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refilled 6-23-2004 as an emergency; operative 6-23-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-21-2004 or emergency language will be repealed by operation of law on the following day.
4. New section refilled 10-18-2004 as an emergency; operative 10-21-2004 (Register 2004, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-2005 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-18-2004 order, including amendment of subsection (a)(2), transmitted to OAL 12-16-2004 and filed 1-28-2005 (Register 2005, No. 4).
6. Change without regulatory effect renumbering former section 12272 to new section 12345 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).

Chapter 4. Manufacturers or Distributors of Gambling Equipment

§ 12300. Definitions.

(a) Except as provided in Section 12002 and in subsection (b) of this section, the definitions in Business and Professions Code section 19805 shall govern the construction of the regulations contained in this chapter:

(b) As used in this chapter only:

(1) "Antique collector" means any individual that sells, exchanges, or otherwise transfers five or fewer antique slot machines, as defined in Penal Code section 330.7, during any calendar year. For purposes of computing the number of antique slot machines transferred during any calendar year, transactions in which a registered manufacturer or distributor acts as an agent or broker on behalf of an antique collector shall not be counted or included. "Antique collector" does not include any individual who is otherwise a manufacturer or distributor within the meaning of paragraph (7) of this subsection.

(2) "Class B" refers to any manufacturer or distributor that has no place of business in the State of California and that does not transport gambling equipment to a destination within the State of California, other than transportation of gambling equipment from an out-of-state location to a tribal gaming facility in this state in compliance with the requirements of sec-

tion 7.4.5 of the applicable Tribal–State Gaming Compact and the procedures established by agreement thereunder. All other manufacturers or distributors are Class A.

(3) “Essential Parts” means and includes any of the following:

(A) Game and pay table programmed media, whether in program-mable read-only memory or erasable programmable read-only memory.

(B) Other electronic or magnetic storage media containing program-ming or data that affect the outcome of the game.

(4) “Executive Director” means Executive Director of the Commission or such other person who may be designated by the Commission.

(5) “Gambling equipment” means any slot machine or device as defined in section 330b or 330.1 of the Penal Code. “Gambling Equipment” also includes (A) any essential part and (B) any inoperable slot machine or device that is substantially complete and repairable or that can be made operable with the installation of one or more essential parts. Any reference to slot machines or devices has the meaning defined in Penal Code sections 330b and 330.1.

(6) “Manufacture or distribute” and “manufacture or distribution” refer to the activities of a manufacturer or distributor specified in paragraph (7) of this subsection.

(7) “Manufacturer or Distributor” means any person that manufactures, including the assembly, production, programming, or modification of, distributes, sells, leases, inspects, tests, repairs, refurbishes, or stores gambling equipment in this state or for use in this state. Manufacturer or distributor includes, in addition to in-state manufacturers and distributors, persons performing these functions in a location outside of this state with respect to gambling equipment intended for operation in this state.

(8) “Registration” means registration with the Commission under this chapter.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code; and Section 337j, Penal Code. Reference: Section 19841(r), Business and Professions Code; and Section 337j(e)(1), Penal Code.

HISTORY

1. New chapter 4 (sections 12300–12308) and section filed 10–7–2002 as an emergency; operative 10–7–2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–4–2003 or emergency language will be repealed by operation of law on the following day.
2. Amendment filed 12–5–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.
3. New chapter 4 (sections 12300–12310) and section, including 12–5–2002 amendments and further amendment of section and NOTE, refiled 1–27–2003 as an emergency; operative 1–27–2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2003, No. 21).
5. New chapter 4 (sections 12300–12310) and section refiled 5–22–2003 as an emergency, including further amendment of subsection (b)(5); operative 5–22–2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–19–2003 or emergency language will be repealed by operation of law on the following day.
6. New chapter 4 (sections 12300–12310) and section refiled 9–8–2003 as an emergency; operative 9–8–2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–6–2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 9–8–2003 order, including amendment of chapter heading and section, transmitted to OAL 1–6–2004 and filed 2–20–2004 (Register 2004, No. 8).
8. Amendment of subsections (a) and (b)(1), repealer of subsections (b)(3)–(b)(4), subsection renumbering and amendment of newly designated subsection (b)(6) filed 1–25–2006; operative 2–24–2006 (Register 2006, No. 4).
9. Change without regulatory effect amending subsection (a) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12301. Registration of Manufacturers or Distributors.

(a) Except as provided in Section 12310, and after December 31, 2002, no person may manufacture or distribute gambling equipment unless that person has a currently valid registration as a manufacturer or distributor in accordance with this chapter.

(b) Each manufacturer or distributor shall apply for registration with the Commission, using the form required by Section 12309. Any

manufacturer or distributor in business on the effective date of this chapter shall submit an application for registration to the Commission within 30 days of the effective date of this chapter. An application for registration shall include all of the following:

(1) The applicant’s name, Federal Employer Identification Number, if any, or Social Security Number, voice telephone number, facsimile telephone number, and address of its principal place of business and of each location in this state at which it conducts the business of manufacture or distribution of gambling equipment or gambling equipment parts, including a list of its storage facilities. For purposes of this paragraph, a vehicle used for storage or distribution of gambling equipment parts shall be deemed to be located at the address in this state where customarily garaged or kept when not in use.

(2) A statement specifying in which activities the applicant engages with respect to gambling equipment located, operated, or to be operated in this state, including, as applicable, manufacturing, distributing, selling, leasing, inspecting, testing, repairing, refurbishing, or storing.

(3) Whether the application is for registration as a class A or as a class B manufacturer or distributor.

(4) If the applicant is a business entity, the name, mailing address, voice telephone number, and facsimile telephone number, if any, of its chief executive officer, or other person designated by the entity to serve as the entity’s representative.

(5) If the principal place of business of the applicant is located outside of this state, the applicant shall provide a copy or other evidence of current licensure in the jurisdiction in which it is located to manufacture or distribute gambling equipment, or shall submit a statement that licensure is not required by the jurisdiction in which it is located.

(6) A copy of the applicant’s current registration with the United States Attorney General pursuant to the Gambling Devices Act of 1962, 15 United States Code section 1173, if the applicant is so registered. If the applicant is not so registered, the application shall include a statement that the applicant is not required to register under the Gambling Devices Act of 1962, Title 15 United States Code section 1173.

(7) Whether the manufacturer or distributor has currently designated an agent for service of process pursuant to the laws of this state by a filing with the Secretary of State and, if so, the name of the designated agent for service of process.

(8) A statement that the application is accurate and complete within the personal knowledge of the designated representative who executes the application.

(9) A declaration under penalty of perjury in the form specified in Section 2015.5 of the Code of Civil Procedure signed by the designated representative that the application is true and correct.

(10)(A) Except as provided in subparagraph (B) of this paragraph, for class A registration, a nonrefundable application fee of five hundred dollars (\$500) shall be submitted with the application for initial registration, and annually thereafter with each application for renewal at least thirty days prior to the anniversary date of initial registration. For class B registration, no fee shall be required for initial registration or renewal. Applications for renewal of class B registration shall be submitted annually at least thirty days prior to the anniversary date of initial registration.

(B) The nonrefundable annual application fee for a manufacturer or distributor applying for class A registration that sells, leases, inspects, tests, repairs, refurbishes, or stores only slot machines or devices that are “antique slot machines” within the meaning of Penal Code section 330.7 shall be forty dollars (\$40), provided that this subparagraph does not apply to a person that is otherwise a manufacturer or distributor or who is an antique collector exempt from registration under Section 12301.1.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Sections 19805(b), 19841(r) and 19951(a), Business and Professions Code; Section 2015.5, Code of Civil Procedure; Section 330.8, Penal Code; and Chapter 24 (commencing with Section 1171) of Title 15 of the United States Code.

HISTORY

1. New section filed 10–7–2002 as an emergency; operative 10–7–2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by

2–4–2003 or emergency language will be repealed by operation of law on the following day.

2. Amendment of section and NOTE filed 12–5–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.
3. New section, including 12–5–2002 amendments and further amendment of NOTE, refiled 1–27–2003 as an emergency; operative 1–27–2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 5–22–2003 as an emergency, including redesignation and amendment of former subsection (b)(10) to new subsection (b)(10)(A) and new subsection (b)(10)(B); operative 5–22–2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–19–2003 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 9–8–2003 as an emergency, including further amendment of subsection (b)(10)(B); operative 9–8–2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–6–2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 9–8–2003 order, including amendment of subsections (b)(8) and (b)(10)(B), transmitted to OAL 1–6–2004 and filed 2–20–2004 (Register 2004, No. 8).
7. Change without regulatory effect amending subsections (a) and (b)(10)(A)–(B) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12301.1. Claim of Exemption by Antique Collector; Form.

(a) An antique collector may obtain an exemption from registration under this chapter if the antique collector satisfies all of the following requirements:

(1) Submits a completed Antique Collector Claim of Exemption, CGCC–039 (Rev. 04/08), which is hereby incorporated by reference, in which the antique collector declares under penalty of perjury in the form specified in section 2015.5 of the Code of Civil Procedure that the information provided in the application is accurate and complete.

(2) The antique collector maintains and retains in California for a period of five years a record of each transaction showing the names and addresses of all parties to the transaction.

(b) Any antique collector who intends to sell, exchange, or transfer more than five antique slot machines within a calendar year shall register as a manufacturer or distributor as otherwise required by this chapter.

(c) The records of slot machine transactions and the inventory of slot machines in the possession of any antique collector shall be subject to inspection by representatives of the Commission or the Bureau during normal business hours.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Sections 19805(b), 19841(r) and 19951(a), Business and Professions Code; Section 2015.5, Code of Civil Procedure; Section 330.8, Penal Code; Chapter 24 (commencing with Section 1171) of Title 15 of the United States Code.

HISTORY

1. New section filed 2–20–2004; operative 2–20–2004 (Register 2004, No. 8).
2. Change without regulatory effect amending subsection (a)(1) filed 1–30–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
3. Change without regulatory effect amending subsections (a)(1) and (c) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12302. Delegation of Authority; Process Times.

(a) The Executive Director shall review and grant or deny applications for registration in accordance with this chapter.

(b) The Executive Director shall approve an application for registration under this chapter if the application satisfies the requirements of Section 12301(b) of this chapter.

(c) The Executive Director shall notify the applicant in writing within ten business days of receiving the application, that the application or resubmitted application is complete and accepted for filing, or that the application or resubmitted application is deficient. If an application for registration is incomplete, the Executive Director shall request in writing any information required in order to complete the application. If the applicant fails to provide the required information within 45 days, the ap-

plication shall be deemed abandoned and no further action will be taken on it.

Upon determination that an application for registration is complete, the application shall be processed within ten business days and the Executive Director shall either issue the registration applied for or shall notify the applicant of denial and the grounds therefor.

(d) Notwithstanding any other provision of this chapter, including subsection (a) of Section 12301, the time within which to register as a manufacturer or distributor shall be extended during any time required by the Executive Director for consideration of a registration application that has been resubmitted pursuant to subsection (c) of this section.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19805(b) and 19841(r), Business and Professions Code.

HISTORY

1. New section filed 10–7–2002 as an emergency; operative 10–7–2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–4–2003 or emergency language will be repealed by operation of law on the following day.
2. Amendment of NOTE filed 12–5–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.
3. New section, including 12–5–2002 amendments and further amendment of section and NOTE, refiled 1–27–2003 as an emergency; operative 1–27–2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 5–22–2003 as an emergency; operative 5–22–2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–19–2003 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 9–8–2003 as an emergency; operative 9–8–2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–6–2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 9–8–2003 order, including amendment of section and NOTE, transmitted to OAL 1–6–2004 and filed 2–20–2004 (Register 2004, No. 8).
7. Change without regulatory effect amending subsection (b) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12303. Conditions of Registration. (Operative August 1, 2003)

(a) Each manufacturer or distributor shall, as a condition of continued registration, comply with the following continuing requirements:

(1) Submit in duplicate to the Commission, at its office in the City of Sacramento, within 30 days after the close of each calendar quarter, a report on sales and shipments of gambling equipment as follows:

(A) Except as provided in subparagraph (D) of this paragraph, for each shipment of gambling equipment received or sent out by the manufacturer or distributor from or to a location in the State of California during the preceding calendar quarter, the report shall include all of the following information:

1. The name and address of the sender.
2. The name and address of the recipient.
3. The date of shipment,
4. The bill of lading number.
5. The manufacturer of each item of gambling equipment if different from the sender.
6. The model (no.) of each item of gambling equipment.
7. The year of manufacture (if known) of each slot machine or device/essential part shipped.
8. The manufacturer's serial number, if any, of each slot machine or device/essential part.
9. The number of units of each type, manufacturer, and model (no.) of slot machine/essential part.

(B) For each sale, lease, or other transfer of gambling equipment not otherwise reportable under subparagraph (A) of this paragraph, and any transfer as an agent or broker on behalf of an antique collector, during the preceding calendar quarter by the manufacturer or distributor from or to

a location within the State of California, the report shall include all of the following information:

1. The names and addresses of all parties to the sale or lease.
2. The date of the contract of sale or lease.
3. The date of shipment or delivery of the gambling equipment.
4. The name of the manufacturer of the gambling equipment if different from the seller.
5. The year of manufacture (if known) of each slot machine or device/essential part sold.
6. The manufacturer's serial number, if any, of each slot machine or device/essential part.
7. The number of units of each type, manufacturer, and model (no.) of slot machine/essential part.

(C) If a manufacturer or distributor delivers or ships gambling equipment to a purchaser or other recipient at a location in this state for subsequent transportation in interstate or foreign commerce as provided in California Penal Code section 330.8, the purchaser or other recipient shall be a registrant under this chapter. These transactions shall be reported pursuant to subparagraph (B) of this paragraph.

(D) Any shipment of gambling equipment sent by a manufacturer or distributor to a tribal gaming facility or sent by a tribal gaming facility to a manufacturer or distributor that is reported to the Bureau pursuant to the terms of the transportation agreement required by section 7.4.5 of the applicable Tribal-State Gaming Compact, need only be reported to the Commission by reference to the recipient and date of the report sent to the Bureau, if the report provided to the Bureau specifies the manufacturer, model (no.), and manufacturer's serial number of the gambling equipment shipped and the shipment is transported in full compliance with all of the requirements of the transportation agreement, including the following:

1. The gambling equipment shall be located in a locked compartment or sealed container within the conveyance while being transported.
2. The gambling equipment shall not be accessible for use while being transported, and,
3. No gambling equipment shall be operated except on the Tribe's lands.

(E) The report shall also include a list of all items of gambling equipment or essential parts in the possession or custody of the registrant at any location in this state (other than a shipment in transit) during the reporting period and the address of each business location of the registrant in this state at which each listed item of gambling equipment or essential part was stored or otherwise located.

(F) The report shall include a statement that it is accurate and complete within the personal knowledge of the designated representative who executes the report, and a declaration under penalty of perjury that it is true and correct, signed by the designated representative in the form specified in Code of Civil Procedure section 2015.5.

(G) The initial quarterly report required by this section shall be for the first calendar quarter of 2003 and shall be submitted and received no later than 30 days following the close of that calendar quarter.

(2) Advise the Commission in writing of any new California business location or any termination of an existing business location, within 15 days following the change.

(3) Submit to any representative of the Commission or the Bureau any additional information requested by the representative concerning the registrant's activities as a manufacturer or distributor, including copies of any records maintained or retained pursuant to Title 15, United States Code, section 1173. The information shall include a statement that the information is accurate and complete within the personal knowledge of the designated representative who executes the report, and a declaration under penalty of perjury that it is true and correct, signed by the designated representative in the form specified in Code of Civil Procedure section 2015.5.

(4) *Submit to inspection and examination* by the Bureau of all premises where gambling equipment is manufactured, sold, or distributed, pursuant to Business and Professions Code section 19827(a)(1)(B).

(5) Submit to audits by representatives of the Commission, upon request, during normal business hours in order to verify the accuracy of reporting under this chapter.

(b) The Commission may deny or revoke a registration, upon any of the following grounds, after a duly noticed hearing:

(1) The manufacturer or distributor has failed or refused to comply with any requirement of this chapter.

(2) The manufacturer or distributor has violated Penal Code sections 330a, 330b, 330.1, or 330.8.

(c) This section shall become operative on August 1, 2003, and applies to reports for all quarters beginning with the report for the third quarter of 2003, which report shall contain data reflecting the new requirements for the months of July, August, and September.

NOTE: Authority cited: Sections 19801(g), 19823, 19824, 19827(a)(1), 19840 and 19841(r), Business and Professions Code. Reference: Sections 19841(r), 19930 and 19931, Business and Professions Code.

HISTORY

1. New section filed 5-22-2003 as an emergency; operative 8-1-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-8-2003 as an emergency, including amendment of subsections (a)(1) and (c); operative 8-1-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-8-2003 order, including amendment of section and NOTE, transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
4. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12303. Conditions of Registration. (Repealed August 1, 2003)

(a) Each manufacturer or distributor shall, as a condition of continued registration, comply with the following continuing requirements:

(1)(A) Submit to the Commission, at its office in the City of Sacramento, within 30 days after the close of each calendar quarter, a report on each shipment of gambling equipment received or sent out by the manufacturer or distributor from or to a location in the State of California during the preceding calendar quarter, including the name and address of the sender and the recipient, the date of shipment, the type and model of gambling equipment or essential part shipped, including the serial number, if any, of the piece of gambling equipment or essential part, and the number of units of each type and model of gambling equipment or essential part. However, any shipment of gambling equipment sent by a manufacturer or distributor to a tribal gaming facility or sent by a tribal gaming facility to a manufacturer or distributor that is reported to the Division pursuant to the terms of the transportation agreement required by Section 7.4.5 of the applicable Tribal-State Gaming Compact, need only be reported to the Commission by reference to the recipient and date of the report sent to the Division, provided that the shipment is transported in full compliance with all of the requirements of the transportation agreement, including the following:

1. The gambling equipment shall be located in a locked compartment or sealed container within the conveyance while being transported.
2. The gambling equipment shall not be accessible for use while being transported, and,
3. No gambling equipment shall be operated except on the Tribe's lands.

(B) The report shall also include a list of all items of gambling equipment or essential parts in the possession or custody of the registrant at any location in this state (other than a shipment in transit) during the reporting period and the address of each business location of the registrant in this state at which each listed item of gambling equipment or essential part was stored or otherwise located.

(C) The report shall include a statement that it is complete and a declaration under penalty of perjury that it is true and correct, signed by the designated representative in the form specified in Code of Civil Procedure section 2015.5.

(D) The initial quarterly report required by this section shall be for the first calendar quarter of 2003 and shall be submitted and received no later than 30 days following the close of that calendar quarter.

(2) Advise the Commission in writing of any new California business location or any termination of an existing business location, within 15 days following the change.

(3) Submit to any representative of the Commission or the Division any additional information requested by the representative concerning the registrant's activities as a manufacturer or distributor, including copies of any records maintained or retained pursuant to Title 15, United States Code, section 1173. The information shall include a statement that the information is complete, and a declaration under penalty of perjury that it is true and correct, signed by the designated representative in the form specified in Code of Civil Procedure section 2015.5.

(4) Submit to inspection and examination by the Division of all premises where gambling equipment is manufactured, sold, or distributed, pursuant to Business and Professions Code section 19827(a)(1)(B).

(5) Submit to audits by representatives of the Commission, upon request, during normal business hours in order to verify the accuracy of reporting under this chapter.

(b) The Commission may deny or revoke a registration, upon any of the following grounds, after a duly noticed hearing:

(1) The manufacturer or distributor has failed or refused to comply with any requirement of this chapter.

(2) The manufacturer or distributor has violated Penal Code sections 330a, 330b, 330.1, or 330.8.

(c) This section shall be repealed on August 1, 2003, and shall have no force or effect on or after that date.

NOTE: Authority cited: Sections 19801(g), 19823, 19824, 19827(a)(1), 19840 and 19841(r), Business and Professions Code. Reference: Section 19841(r), Business and Professions Code.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. Amendment filed 12-5-2002 as an emergency; operative 12-5-2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section, including 12-5-2002 amendments and further amendment of section and NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 5-22-2003 as an emergency, including amendment of section heading and subsection (b)(2), and new subsection (c); operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day. *Text of version effective through 7-31-2003 retained for reference.*
5. Certificate of Compliance as to 9-8-2003 order, including change in placement of section, transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8). *Text of version effective through 7-31-2003 retained for reference.*

§ 12304. Fines.

(a) In addition to, or in lieu of, any denial or revocation of registration under Section 12303(b), any violation of this chapter other than as provided in subsection (c) of this section shall be subject to a fine not to exceed ten thousand dollars (\$10,000) upon first offense and twenty thousand dollars (\$20,000) upon any second or subsequent offense for each separate violation, as provided by Business and Professions Code section 19930, subdivision (c).

(b) Each day a violation continues shall be deemed a separate violation commencing after receipt of notice of violation by the manufacturer or distributor from the Commission or Bureau or 30 days after commencement of the violation, whichever first occurs.

(c) A manufacturer or distributor shall be liable for a civil penalty not to exceed five hundred dollars (\$500) per business day for each business day that the report required by Section 12303, subsection (a), paragraph

(1), is overdue. For purposes of this chapter, the report shall be deemed overdue if not received by the Commission within 30 calendar days following the last day of the calendar quarter for which the report is required.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Sections 19841(r), 19930 and 19931, Business and Professions Code.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of section and NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order, including amendment of subsection (a) and NOTE, transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
6. Change without regulatory effect amending subsections (b)-(c) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12305. Availability of Records.

(a) Copies of any and all records provided to the Commission by applicants and registrants under this chapter shall be provided upon request to the Bureau and made available upon request to any law enforcement agency.

(b) Upon request of the Commission, copies of the following records shall be provided by the Bureau to the Commission:

(1) Any and all records received by the Bureau from manufacturers and distributors,

(2) Any and all transportation agreements and amendments to transportation agreements entered into with gaming tribes under the Tribal-State Gaming Compacts referred to in Section 12306,

(3) Any and all records received by the Bureau pursuant to transportation agreements entered into with gaming tribes under the Tribal-State Gaming Compacts referred to in Section 12306.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Sections 19805(b) and 19841, Business and Professions Code.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. Amendment of NOTE filed 12-5-2002 as an emergency; operative 12-5-2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section, including 12-5-2002 amendments and further amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 9-8-2003 order, including amendment of subsection (b), transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
7. Change without regulatory effect amending subsections (a)-(b)(3) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12306. Applicability on Indian Lands.

This chapter does not apply to the manufacture or distribution of gambling equipment conducted upon Indian lands in this state on which class III gaming has been authorized, in accordance with a Compact between a federally recognized Indian Tribe and the State of California, as provided in section 11 of the Indian Gaming Regulatory Act of 1988 (P.L. 100-497), Title 25, United States Code, section 2710 and any amendments thereto; provided, that the manufacture or distribution is not prohibited by the laws of the United States and is limited to gambling equipment that is used or for use in the Tribe's gaming operation, including the sale of gambling equipment previously acquired for use in the Tribe's gaming operation.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Section 19841(r), Business and Professions Code; and Title 25, United States Code, section 2710.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
6. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12307. Transportation Report.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Section 19841(r), Business and Professions Code.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order, including repealer of section, transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).

§ 12308. Penal Code Applicability.

Nothing in this chapter shall be construed to make lawful the manufacture, distribution, or transportation of any slot machine or device in violation of any provision of Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Section 19841(r), Business and Professions Code; and Chapter 10 (commencing with Section 330) of Title 9 of Part 1, Penal Code.

HISTORY

1. New section filed 10-7-2002 as an emergency; operative 10-7-2002 (Register 2002, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance

must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
6. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12309. Forms.

(a) Applications for registration under Section 12301(b) shall be submitted on the Application for Registration of Manufacturers or Distributors of Gambling Equipment CGCC-025 (Rev. 04/08)), which is hereby incorporated by reference.

(b) Quarterly Report, CGCC-040 (Rev. 04/08), which is hereby incorporated by reference, may but need not be used for submission of reports required by Section 12303.

NOTE: Authority cited: Sections 19823, 19824, 19840, 19841(r) and 19864, Business and Professions Code. Reference: Sections 19841(r) and 19951(a), Business and Professions Code; Section 2015.5, Code of Civil Procedure; Section 330.8, Penal Code; Chapter 24 (commencing with Section 1171) of Title 15 of the United States Code.

HISTORY

1. New section filed 12-5-2002 as an emergency; operative 12-5-2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 5-22-2003 as an emergency, including further amendment of section; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order, including amendment of section heading and section, transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
6. Change without regulatory effect amending subsection (a) filed 1-30-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
7. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12310. Uniform Tribal Gaming Regulation Exemption.

There shall be exempt from this chapter all class B manufacturers and distributors that are subject to requirements of a Tribal Gaming Agency pursuant to a uniform regulation (1) that has been approved by the Association of Tribal and State Gaming Regulators, and is in effect as provided in section 8.4.1 of the Tribal-State Gaming Compacts, and (2) that includes the requirement for manufacturers and distributors to provide quarterly reports to the Commission pertaining to gaming device shipments pursuant to the Transportation Agreements entered into by Tribal Gaming Agencies and the State Gaming Agency pursuant to section 7.4.5 of the Tribal-State Gaming Compacts, which reports are verified by a declaration under penalty of perjury signed by the designated representative of the manufacturer or distributor that the report is true and correct.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841(r), Business and Professions Code. Reference: Section 19841(r), Business and Professions Code.

HISTORY

1. New section filed 12-5-2002 as an emergency; operative 12-5-2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-4-2003 or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of NOTE, refiled 1-27-2003 as an emergency; operative 1-27-2003 (Register 2003, No. 5). A Certificate of Compliance

must be transmitted to OAL by 5-27-2003 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 5-22-2003 as an emergency; operative 5-22-2003 (Register 2003, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-2003 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9-8-2003 as an emergency; operative 9-8-2003 (Register 2003, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-6-2004 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 9-8-2003 order transmitted to OAL 1-6-2004 and filed 2-20-2004 (Register 2004, No. 8).
6. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Chapter 6. State Gambling Licenses and Approvals for Gambling Establishments, Owners, and Key Employees

Article 1. Definitions and General Provisions

§ 12335. Definitions.

(a) Except as otherwise provided in subsection (c) of Section 12002 of these regulations, the definitions in Business and Professions Code section 19805 shall govern the construction of this chapter.

(b) As used in this chapter:

(1) "Table Fee" means the fee established by Business and Profession Code, section 19951(b)(2).

NOTE: Authority cited: Sections 19811(b), 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19800, 19805(l) and (o), 19811 and 19951(b)(2), Business and Professions Code.

HISTORY

1. New article 1 (section 12335) and new section filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
2. Change without regulatory effect amending subsection (a) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 2. Licensing

§ 12340. Gambling License and Key Employee License.

(a) No person may conduct a gambling operation without a current valid gambling license issued by the Commission.

(b) Except as provided in Business and Professions Code section 19883 and Section 12347, no person may be a key employee of a gambling operation without a current valid key employee license issued by the Commission.

(c) A state gambling license and key employee license shall be valid for a period of two (2) years.

NOTE: Authority cited: Sections 19811(b), 19823, 19824, 19840, 19841, 19850, 19851, 19852, 19853, 19854 and 19876(a), Business and Professions Code. Reference: Sections 19850, 19851, 19854, 19855 and 19876(a), Business and Professions Code.

HISTORY

1. New article 2 heading and new section filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).

§ 12341. Fee for Initial State Gambling License.

(a) The fee required by Business and Professions Code section 19951, subdivision (b)(2)(A) for initial issuance of a state gambling license shall be based on the number of tables authorized by the state gambling license and determined pursuant to the following schedule:

(1) For a license authorizing one to five tables, inclusive, at which games are played, three hundred dollars (\$300) for each table.

(2) For a license authorizing six to eight tables, inclusive, at which games are played, five hundred fifty dollars (\$550) for each table.

(3) For a license authorizing 9 to 14 tables, inclusive, at which games are played, one thousand three hundred dollars (\$1,300) for each table.

(4) For a license authorizing 15 to 25 tables, inclusive, at which games are played, two thousand seven hundred dollars (\$2,700) for each table.

(5) For a license authorizing 26 to 70 tables, inclusive, at which games are played, four thousand dollars (\$4,000) for each table.

(6) For a license authorizing 71 or more tables at which games are played, four thousand seven hundred dollars (\$4,700) for each table.

(b) Subsection (a) applies to the following:

(1) The initial issuance of a state gambling license to the holder of a provisional license as defined in Title 11, California Code of Regulations, Section 2140(c).

(2) The initial issuance of a state gambling license to a person who has purchased an existing gambling establishment and who is seeking issuance of an owner's state gambling license certificate pursuant to Business and Professions Code section 19851.

(c) Subsection (a) does not apply to the following:

(1) Changes in the ownership structure of currently licensed gambling establishments.

(2) Holders of newly acquired interests in currently licensed gambling establishments.

NOTE: Authority: Sections 19811, 19824, 19840, 19841(a) and 19951(b)(2)(A), Business and Professions Code. Reference: Section 19951(b)(2)(A), Business and Professions Code.

HISTORY

1. New section filed 2-8-2007; operative 2-8-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).
2. Change without regulatory effect amending subsection (b)(1) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12342. Initial License Applications; Required Forms.

(a) Any person applying for a state gambling license or key employee license shall, as appropriate, complete the following forms, which are hereby incorporated by reference:

(1) Application for State Gambling License, CGCC-030 (Rev. 04/08).

(2) Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08).

(3) Gambling Establishment Owner Applicant-Individual Supplemental Background Investigation Information, BGC-APP-015A (Rev. 04/08).

(4) Gambling Establishment Owner Entity Supplemental Information for State Gambling License, BGC-APP-015B (Rev. 04/08).

(5) Gambling Establishment Supplemental Information for State Gambling License, BGC-APP-015C (Rev. 04/08).

(6) Gambling Establishment Key Employee Supplemental Background Investigation Information, BGC-APP-016A (Rev. 04/08).

(7) Cardroom Applicant's Spouse Supplemental Background Information for State Gambling License, BGC-APP-009A (Rev. 04/08).

(8) Trust Supplemental Background Investigation Information, BGC-APP-143 (Rev. 04/08).

(9) Declaration of Full Disclosure, BGC-APP-005 (Rev. 11/07).

(10) Authorization to Release Information, BGC-APP-006 (Rev. 04/08).

(11) Applicant's Declaration, Acknowledgment and Agreement (Community Property Interest), BGC-APP-011 (Rev. 11/07).

(12) Applicant's Declaration, Acknowledgment and Agreement (Sole and Separate Property), BGC-APP-012 (Rev. 11/07).

(13) Spouse's Declaration, Acknowledgment and Agreement (Community Property Interest), BGC-APP-013 (Rev. 11/07).

(14) Spouse's Declaration, Acknowledgment and Agreement (Sole and Separate Property), BGC-APP-014 (Rev. 11/07).

(15) Appointment of Designated Agent, BGC-APP-008 (Rev. 11/07).

(16) Key Employee Report, BGC-LIC-101 (Rev. 11/07).

(17) Instructions to Applicant's Spouse, BGC-APP-010 (Rev. 04/08).

(18) Notice to Applicants, BGC-APP-001 (Rev. 11/07).

(19) Request for Live Scan Service (California Department of Justice Form BCII 8016, Rev. 4/01).

(20) Request for Copy of Personal Income Tax or Fiduciary Return, FTB-3516C1 (Rev. 06/03 side 1-PIT).

(21) Request for Copy of Corporation, Exempt Organization, Partnership, or Limited Liability Company Return FTB-3516C1 (Rev. 06/03 side 2-CORP).

(22) Request for Transcript of Tax Return IRS 4506-T, Rev. April 2006).

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19850, 19851, 19852, 19854, 19855, 19856, 19857, 19864, 19865, 19866, 19867, 19880, 19881, 19883, 19890, 19893, 19951 and 19982, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former chapter 3 (sections 12250-12272) to new chapter 6 (sections 12342-12345) and renumbering and amending former section 12270 to new section 12342 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).
2. Amendment of chapter heading filed 12-21-2005; operative 1-1-2006 (Register 2005, No. 51).
3. Amendment of section heading, section and NOTE filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
4. Change without regulatory effect amending subsections (a)(1)-(18) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12343. Processing Times—Initial Applications.

(a) Except as provided in subsection (b), initial gambling or key employee license applications submitted pursuant to this chapter shall be processed within the following timeframes:

(1) The maximum time within which the Commission shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for initial processing by the Commission, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is 20 days after receipt of the application. For the purposes of this section, "application" means the Application for State Gambling License, CGCC-030 (Rev. 04/08) and the Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08), referenced in Section 12342. An application is not complete unless accompanied by the fee of five hundred dollars (\$500) specified in Business and Professions Code section 19951(a). In addition, an applicant shall submit with the application, any supplemental information required by Section 12342 for review by the Bureau pursuant to paragraph (3) of this subsection. The Commission shall not review the supplemental information for completeness.

(2) An application for a license and the supplemental information shall be forwarded by the Commission to the Bureau within 10 days of the date that the Commission determines that the application is complete.

(3) The Bureau shall review the supplemental information submitted for completeness and notify the applicant of any deficiencies in the supplemental information, or that the supplemental information is complete, within 30 days of the date that the application and supplemental information are received by the Bureau from the Commission. Notwithstanding this subsection, subsequent to acceptance of the supplemental information as complete, the Bureau may pursuant to Business and Professions Code section 19866 require the applicant to submit additional information.

(4) Pursuant to Business and Professions Code section 19868, the Bureau shall, to the extent practicable, submit its recommendation to the Commission within 180 days after the date the Bureau is in receipt of both the completed application pursuant to paragraph (2) of this subsection and the completed supplemental information pursuant to paragraph (3) of this subsection. If the Bureau has not concluded its investigation within 180 days, then it shall inform the applicant and the Commission in writing of the status of the investigation and shall also provide the applicant and the Commission with an estimated date on which the investigation may reasonably be expected to be concluded.

(5) The Commission shall grant or deny the application within 120 days after receipt of the final written recommendation of the Bureau concerning the application, except that the Commission may notify the applicant in writing that additional time, not to exceed 30 days, is needed.

(b) The processing times specified in subsection (a) may be exceeded in any of the following instances:

(1) The applicant has agreed to extension of the time.

(2) The number of licenses to be processed exceeds by 15 percent the number processed in the same calendar quarter the preceding year.

(3) The Commission must rely on another public or private entity for all or part of the processing and the delay is caused by that other entity.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19841 and 19868, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 12271 to new section 12343 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).
2. Amendment of subsections (a)(1)-(2) filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
3. Change without regulatory effect amending subsections (a)(1)-(5) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12344. License Renewals.

(a) Each application for renewal of a state gambling license or for renewal of a key employee license shall be accompanied by all of the following:

(1) A completed application:

(A) Applicants for a state gambling license shall use the form "Application for State Gambling License, CGCC-030 (Rev. 04/08)."

(B) Applicants for a key employee license shall use the form "Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08)."

(2) A nonrefundable application fee in the amount of five hundred dollars (\$500).

(b) Each key employee or other person whose name is required to be endorsed upon the license shall submit a separate application for renewal of that person's license, together with the application fee specified in subsection (a).

(c) All applications for renewal of state gambling licenses and key employee licenses for a particular gambling establishment shall be submitted together as a single package to the California Gambling Control Commission.

(d) If, after a review of an application for renewal of a state gambling license or a key employee license, the Bureau determines that further investigation is needed, the applicant shall submit an additional sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated investigation and processing costs, in accordance with Business and Professions Code section 19867.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19851, 19876 and 19951, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering and amending section 12250 to new section 12344 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).
2. Amendment of subsections (a)-(a)(1)(B), repealer of subsection (a)(2) and subsection renumbering filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
3. Change without regulatory effect amending subsections (a)(1)(A)-(B) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12345. Processing Times—Renewal Applications.

(a) Except as provided in subsection (b), renewal gambling or key employee license applications submitted pursuant to Section 12344 shall be processed within the following timeframes:

(1) An application for renewal of a gambling license or key employee license shall be filed by the owner licensee or the key employee with the Commission no later than 120 days prior to the expiration of the current license.

(2) The maximum time within which the Commission shall notify the applicant in writing that an application or a resubmitted application is complete and accepted for initial processing by the Commission, or that an application or a resubmitted application is deficient and identifying what specific additional information is required, is 10 days after receipt of the application. For the purposes of this section, "application" means the Application for State Gambling License, CGCC-030 (Rev. 04/08) and the Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08), referenced in Section 12342. An application is not complete unless accompanied by the fee of five hundred dollars (\$500) specified in Business and Professions Code section 19951(a).

(3) An application for a license shall be forwarded by the Commission to the Bureau for processing within five days of the date that the Commission determines that the application is complete.

(4) The Bureau shall submit its written recommendation concerning the renewal application to the Commission no later than 45 days prior to the expiration of the current license.

(b) The processing times specified in paragraphs (2) through and including (4) of subsection (a) may be exceeded in any of the following instances:

(1) The applicant has agreed to extension of the time.

(2) The number of licenses to be processed exceeds by 15 percent the number processed in the same calendar quarter the preceding year.

(3) The Commission must rely on another public or private entity for all or part of the processing and the delay is caused by that other entity.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19868 and 19876, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 12272 to new section 12345 filed 3-22-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).

2. Amendment of subsections (a)(2)-(3) filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).

3. Change without regulatory effect amending subsections (a)(2)-(4) and (b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12347. Interim Key Employee Status While Application Pending.

(a) Unless given 30 days after hiring to file an application for key employee licensure pursuant to Business and Professions Code section 19883 (corporate owner-licensee exemption for key employees), gambling establishment employees holding a valid work permit or license for any gambling establishment may begin work as an interim key employee provided that written notice is given to the Commission and Bureau within ten days of the employee's assumption of key employee duties, accompanied by a description of the key employee duties the employee will perform and a copy of the employee's current work permit or license for any licensed gambling establishment.

(b) An interim key employee shall, within 30 days of assuming a key employee position, submit the following:

(1) The Commission's key employee license application form, CGCC-031, as referenced in Section 12342,

(2) The Bureau's key employee supplemental application, BGC-APP-016A, as referenced in Section 12342, and

(3) All applicable fees and deposits due for a key employee license.

(c) An applicant for key employee licensure currently working as an interim key employee shall cease working in a key employee position if the application for key employee licensure is abandoned or denied, if the employee's work permit is revoked or cancelled before the key employee license is approved, or if the Executive Director notifies the applicant and gambling establishment that the interim status is cancelled pursuant to subsection (d), below.

(d) With ten day's advance written notice to the interim key employee and to the gambling establishment, the Executive Director shall cancel the interim key employee status based upon the following:

(1) Evidence showing that the applicant has sustained any disqualifying criminal convictions;

(2) Evidence showing that the applicant is statutorily ineligible for a key employee license under the Act;

(3) Evidence which discloses that having the applicant serve as a interim key employee pending determination of their application may in the judgment of the Executive Director present a danger to the public or to the reputation of controlled gambling in this state;

(4) A determination by the Executive Director that the applicant has failed to reveal any fact that is material to, or supplied materially untrue or misleading information on, the applicant's key employee license application;

(5) A Bureau recommendation of denial of the applicant's key employee application;

(6) Referral by the Commission of the applicant to an evidentiary hearing with direction to the Executive Director to cancel the interim key employee status; or

(7) A determination by the Executive Director that the gambling establishment using the interim key employee procedure has shown a pattern or practice of hiring or promoting persons to key employee positions in violation of subsection (a) above or that the gambling establishment has acted in bad faith, with actual knowledge that the persons hired or promoted would be ineligible for licensure.

(e) Within ten days of the date of notice of a cancellation of interim status pursuant to this section, the gambling establishment shall notify the Commission in writing of the effective date of the position change for or suspension of the employee, and shall describe the employee's revised job duties, if any.

(f) Judicial review of a cancellation of interim status shall be by petition pursuant to Section 1085 of the Code of Civil Procedure.

NOTE: Authority cited: Sections 19823, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19805(w), 19805(x), 19850, 19855, 19856, 19857, 19859, 19866, 19870 and 19883, Business and Professions Code.

HISTORY

1. New section filed 11-21-2007; operative 1-1-2008 (Register 2007, No. 47).

2. Change without regulatory effect amending subsections (a), (b)(1)-(2) and (d)(5) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 3. Table Fee; Requests for Additional Tables

§ 12357. Table Fee.

The fee required by Business and Professions Code section 19951, subdivision (b)(2)(B) shall be based on the criteria in subsection (a) or (b) of this section, whichever is applicable, and shall be due and paid annually by the holder of a state gambling license to the Commission no later than 120 calendar days following the end of the licensee's fiscal year.

(a) The fee specified in Business and Professions Code section 19951, subdivision (c) shall be based on the number of tables authorized by the license during the licensee's preceding fiscal year.

(b) The fee specified in Business and Professions Code section 19951, subdivision (d) shall be based on the owner licensee's gross revenues for the preceding fiscal year.

(c) Each holder of a state gambling license shall submit to the Commission, together with their payment of the annual fee specified in this section, a completed form Gambling Establishment Annual Fee Calculation, CGCC-028 (New 08/07), which is hereby incorporated by reference.

NOTE: Authority cited: Sections 19811(b), 19823, 19824, 19840, 19841, 19876(a) and 19951, Business and Professions Code. Reference: Sections 19841, 19876(a), 19951 and 19954, Business and Professions Code.

HISTORY

1. New article 3 heading and new section filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).

§ 12358. Request for Additional Temporary Tables for Tournaments or Special Events.

(a) An owner licensee of a gambling establishment may apply to operate, on a limited and temporary basis, for a tournament or special event

(hereinafter, event), more tables than the gambling establishment is authorized to regularly operate. To apply for additional tables, the applicant must submit to the Commission, no less than 45 days prior to the event, the following for each event:

(1) A completed and signed application form entitled "Request for a Certificate to Operate Additional Tables on a Temporary Basis" CGCC-024 (Rev. 04/08), which is attached in Appendix A to this chapter.

(2) A non-refundable application fee of \$500 plus a Bureau review deposit pursuant to California Code of Regulations, Title 11, Section 2037, made payable to the California Gambling Control Commission.

(3) Fees for the additional tables, as calculated according to the form in paragraph (1) of this subsection.

(b) The Commission shall not grant the application if a review by the Bureau discloses any of the following:

(1) The requested temporary increase in the number of tables would exceed the number of tables allowed to be operated by the local jurisdiction for either the particular cardroom or the jurisdiction where the gambling establishment is located.

(2) The requested temporary increase in the number of tables has been denied by the local jurisdiction where the gambling establishment is located.

(3) The gambling establishment's state gambling license is suspended or contains conditions precluding the approval of a temporary increase in the number of tables.

(4) The gambling establishment has outstanding fees, deposits, fines, or penalties owing to the Commission or to the Bureau.

(c) The Commission may deny the application if the application as submitted was untimely or incomplete.

(d) A request by an applicant to withdraw the application shall result in the application being considered abandoned, and the fees for the additional tables and unused deposit amounts returned, with no further action to be taken by the Commission.

(e) The Commission may delegate the authority to deny the requested temporary increase or to issue a license certificate approving the requested temporary increase in the number of tables to any employee of the Commission. Commission staff shall commence the initial review and shall forward the application to the Bureau for review within 7 days of receipt of the application. The Bureau shall complete its review and return its findings to the Commission within 25 days of receipt of the application from the Commission. Commission staff shall then complete the review within 13 days of receiving the Bureau's findings and notify the applicant.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841(a)-(c) and (p), 19864, 19950(b) and 19952, Business and Professions Code. Reference: Section 19951, Business and Professions Code.

HISTORY

1. New section filed 5-18-2006; operative 6-17-2006 (Register 2006, No. 20).
2. Change without regulatory effect amending subsection (a)(1) filed 7-19-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 29).
3. Change without regulatory effect amending subsection (a)(1) filed 1-30-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 5).
4. Amendment of subsections (a)(1)-(2) and NOTE filed 6-24-2008; operative

6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).

5. Change without regulatory effect amending subsections (a)(1)-(b), (b)(4) and (e) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12359. Request for Additional Permanent Tables.

(a) The owner licensee of a gambling establishment may apply to operate additional tables on a permanent basis by submitting the following to the Executive Director:

(1) A completed and signed application form entitled "Application for Additional Authorized Permanent Tables," CGCC-027 (Rev. 04/08), which is attached in Appendix A to this chapter.

(2) A non-refundable application fee of \$500 plus a Bureau review deposit pursuant to California Code of Regulations, Title 11, Section 2037, made payable to the California Gambling Control Commission.

(b) The Commission shall not grant the application if any of the following are disclosed by the application or the results of the investigation of the applicant by the Bureau:

(1) The requested increase in the number of tables would exceed the number of tables allowed to be operated by the local jurisdiction for either the particular cardroom or the jurisdiction in which the gambling establishment is located.

(2) The requested increase in the number of tables has been denied by the local jurisdiction in which the gambling establishment is located.

(3) The gambling establishment's state gambling license is suspended or is subject to conditions precluding the approval of an increase in the number of tables.

(4) The gambling establishment has outstanding fees, deposits, fines, or penalties owing to the Commission or to the Bureau.

(c) A request by an applicant to withdraw the application shall result in the application being considered abandoned and unused deposit amounts returned, with no further action to be taken by the Commission.

(d) Commission staff shall commence the initial review and shall forward the application to the Bureau for investigation within 7 days of receipt of the application. The Bureau shall complete its review and return its findings to the Commission within 25 days of receipt of the application from the Commission. Commission staff shall then complete the review and set the request on the Commission agenda within 90 days of receiving the Bureau's findings and advise the applicant of the agenda date and any required table fees due. If the request for additional permanent tables is approved, applicant must pay the required tables fee due before placing the additional tables in operation.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19864, 19950(b) and 19951, Business and Professions Code. Reference: Section 19951, Business and Professions Code.

HISTORY

1. New section filed 12-21-2005; operative 1-1-2006 (Register 2005, No. 51).
2. Change without regulatory effect amending subsection (a)(1) filed 7-19-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 29).
3. Amendment of subsections (a)(1)-(2) and NOTE filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
4. Change without regulatory effect amending subsections (a)(1)-(b), (b)(4) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Appendix A to Chapter 6



State Of California
California Gambling Control Commission
CGCC-024 (Rev. 04/08)

REQUEST FOR A CERTIFICATE TO OPERATE ADDITIONAL TABLES ON A TEMPORARY BASIS

Commission Use Only	
Date Cashiered:	
Fee Received:	

Type or print (in ink) all information requested on this application form. If additional space is needed, please note response on a separate sheet of paper and attach to the application. Any corrections, changes, or other substitutions must be initialed and dated by the applicant.

Do not misstate or omit any material fact(s) as each statement made herein is subject to verification.

PLEASE SEND COMPLETED APPLICATIONS TO CGCC at: 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231

Attach a payment (payable to the California Gambling Control Commission), for the total amount of the following fees and deposit:

A non-refundable \$500 application fee

Temporary tables fees (see reverse for instructions)

A review deposit, pursuant to Cal. Code of Regulations, title 11, section 2037

SECTION 1: GAMBLING ESTABLISHMENT INFORMATION

Name of Gambling Establishment:

Business Address:

Street

City

State

Zip Code

Business Telephone Number:

Business Facsimile Number (if applicable):

SECTION 2: EVENT INFORMATION

A) Number of Presently Authorized Permanent Tables:	
B) Number of Requested Additional Temporary Tables for the Event:	
C) Total Number of Proposed Tables during the date listed in this request: (Total Amount of A and B)	
D) Amount of table fees included with this request: (Refer to instructions for additional information.)	
E) Proposed Date(s) and Time(s) of the Event (If the number of tables vary on multiple dates, attach a list by date):	
F) Name of the Event:	
G) Location of the Event within the Gambling Establishment:	
H) Approved Games or Gaming Activities to be offered during this Event: (If Bureau approval is pending, please so state.)	

SECTION 3: DECLARATION

I request the issuance of a Certificate to Operate Additional Tables on a Temporary Basis at the above-named gambling establishment.

I understand that the establishment identified above will not be allowed to legally operate more than the number of tables for which a fee is being paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing information, and all information submitted with this application is true, correct, and complete.

Signature of Owner Licensee: _____

Print Name:

Date:

Designated Contact for this Application:

Telephone Number:

REQUEST FOR A CERTIFICATE TO OPERATE ADDITIONAL TABLES ON A TEMPORARY BASIS

SECTION 1: GAMBLING ESTABLISHMENT INFORMATION

Provide the legal name of the entity and any alternative names for the same business entity. You must notify the Commission of any name, address or telephone number changes. Your information is used to provide proper identification of your file, to contact you, and/or to determine your eligibility. Personal information contained in this application may be disclosed to the public in accordance with the Gambling Control Act (Business and Professions Code section 19821(b)).

SECTION 2: EVENT INFORMATION

Indicate the number of tables that the gambling establishment currently has and the number it is requesting to operate on a temporary basis. Also provide the total number of tables that the gambling establishment wishes to operate and all relevant event information. Note: All requests are subject to compliance with local ordinances and state gambling laws.

INSTRUCTIONS FOR CALCULATING THE AMOUNT OF TABLE FEES TO OPERATE ADDITIONAL TABLES ON A TEMPORARY BASIS

Determine the amount of the required fee that must be included with this request by completing the following steps and using the table below:

Number of Tables	Per Table Fee
One to Five	\$300
Six to Eight	\$550
Nine to Fourteen	\$1,300

Number of Tables	Per Table Fee
Fifteen to Twenty-five	\$2,700
Twenty-six to Seventy	\$4,000
Seventy-one or more	\$4,700

1. Add the current number of authorized tables licensed by the Commission to operate to the number of special event tables.
2. Multiply the total number of tables by the per table fee indicated in the above table.
3. From this total, subtract the basic table fees previously assessed for the current year.
4. Divide this figure by 365. This establishes the additional daily table fee for the event.
5. Multiply this total by the number of event days (fractions or portions of a day are considered a full day) and round your result up to the nearest whole number.
6. Multiply this number by two. This final figure is the table fee for the tournament or special event.

EXAMPLE: Gambling establishment "A" proposes to operate an additional 3 tables during a 5-day tournament. Establishment "A" is licensed/certified by the Commission for 24 tables and has been previously assessed a fee of \$64,800 (24 tables x \$2,700 per table = \$64,800)

1. Add the current number of tables and the additional number of tournament tables (24 current + 3 additional = 27 total)
2. Multiply this amount by the per table fee shown above (27 total # tables x \$4,000 per table = \$108,000).
3. From this amount, subtract the previously assessed fee for the year (\$108,000 - \$64,800 previously assessed fee = \$43,200).
4. Divide this amount by 365 (\$43,200 ÷ 365 = \$118.36).
5. Multiply this amount by the number of days of the tournament (\$118.36 x 5 days = \$591.80) and round this number up to the nearest whole number (\$592).
6. Multiply this amount by two (\$592 x 2 = \$1184). The final fee for Establishment "A" to operate the additional tables for its tournament would be \$1184.

SECTION 3: DECLARATION

Sign and date the application under penalty of perjury. An application must be signed and dated to be considered complete. The designated contact person for this application must also be included, if applicable.



State of California
California Gambling Control Commission
CGCC-027 (Rev. 04/08)

Commission Use Only

Fee Received: _____

Date to DGC: _____

APPLICATION FOR ADDITIONAL AUTHORIZED PERMANENT TABLES

Please refer to the instructions when completing the application. Type or print (in ink) all information requested on this application form.

If additional space is needed, please note response on a separate sheet of paper and attach to the application.

Any corrections, changes, or other substitutions must be initialed and dated by the applicant.

Do not misstate or omit any material fact(s) as each statement made herein is subject to verification.

PLEASE SEND COMPLETED APPLICATIONS TO CGCC at: 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231

Attach a payment (payable to the California Gambling Control Commission), for the total amount of the following fee and deposit:

A non-refundable \$500 application fee

A review deposit, pursuant to Cal. Code of Regulations, title 11, section 2037

SECTION 1: GAMBLING ESTABLISHMENT INFORMATION

Name of Gambling Establishment:

Business Address:

Street

City

State

Zip Code

Mailing Address (if different than Business Address):

Street

City

State

Zip Code

Business Telephone Number:

Business Facsimile Number (if applicable):

SECTION 2: TABLE INFORMATION

A) Number of Presently Authorized Permanent Tables:	
B) Number of Requested Additional Permanent Tables:	
C) Total Number of Proposed Tables: (Total Amount of A and B)	

SECTION 3: DECLARATION

I request approval to operate additional permanent tables, described in Section 2, at the gambling establishment described in Section 1.

I declare under penalty of perjury under the laws of the State of California that the foregoing information, and all information submitted with this application is true, correct, and complete.

Signature of Owner Licensee: _____

Print Name:

Date:

Designated Contact for this Application:

Telephone Number:

APPLICATION FOR ADDITIONAL AUTHORIZED PERMANENT TABLES

Retain a photocopy of the complete application packet for your permanent records.

Applications not fully and accurately completed (including all required supporting materials) will be returned to the sender for completion. If the application is returned at any point in the processing, the applicant will need to follow the directions included with it and resubmit it in a timely manner. If any or all information is not provided, the application may be delayed, returned for completion, or denied.

The applicant is responsible for providing the appropriate information needed to determine eligibility for additional authorized permanent tables. If a question is not applicable, indicate with "N/A." If additional space is needed, use a separate sheet of paper and precede each response with the applicable section and item. Attach the paper to the back of the application.

Items required for the application to be considered complete:

- Application for Additional Authorized Permanent Tables (CGCC-027)
- A non-refundable \$500 application fee
- A Bureau review deposit, pursuant to California Code of Regulations, title 11, section 2037

SECTION 1: GAMBLING ESTABLISHMENT INFORMATION

Provide the legal name of the entity and any alternative names for the same business entity. You must notify the Commission of any name, address or telephone number changes. Your information is used to provide proper identification of your file, to contact you, and/or to determine your eligibility. Personal information contained in the *Application for Additional Authorized Permanent Tables CGCC-027* may be disclosed to the public in accordance with the Gambling Control Act (Business and Professions Code section 19821(b)).

SECTION 2: TABLE INFORMATION

Indicate the number of tables that the gambling establishment currently has and the number it is requesting. Also provide the total number of tables that the gambling establishment wishes to operate. Please note that all requests are subject to compliance with local ordinances and state gambling laws.

SECTION 3: DECLARATION

Sign and date the application under penalty of perjury. An application must be signed and dated to be considered complete. The designated contact person for this application must also be included, if applicable.

HISTORY

1. New Appendix A filed 12-21-2005; operative 1-1-2006 (Register 2005, No. 51).
2. New form CGCC-024 filed 5-18-2006; operative 6-17-2006 (Register 2006, No. 20).
3. Change without regulatory effect amending forms CGCC-024 and CGCC-027 filed 7-19-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 29).
4. Change without regulatory effect providing updated form CGCC-024 filed 1-30-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 22).
5. Amendment of forms CGCC-024 and CGCC-027 filed 6-24-2008; operative 6-24-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 26).
6. Change without regulatory effect amending forms CGCC-024 and CGCC-027 filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Chapter 7. Conditions of Operation for Gambling Establishments

Article 1. General Provisions

§ 12360. Chapter Definitions.

The definitions in Business and Professions Code section 19805 govern the construction of this chapter. As used in this chapter, "Licensee"

means “owner licensee” as defined in Business and Professions Code section 19805, subdivision (ac).

NOTE: Authority cited: Section 19840, Business and Professions Code. Reference: Section 19805, Business and Professions Code.

HISTORY

1. Relocation of chapter 7 and reserved article 1 headings to precede new section 12360 and new article 1 (section 12360) and section filed 11-8-2004; operative 11-8-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 46).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Article 2. Emergency Preparedness and Evacuation Plan

§ 12370. Emergency Preparedness and Evacuation Plan.

(a) As used in this section:

(1) “Critical Incident” means a crisis situation involving the threat of serious injury or death and includes not only natural disasters, but also human-caused events, such as terrorist acts.

(2) “Plan” means an emergency preparedness and evacuation plan.

(b) For the purpose of ensuring the physical safety of patrons, employees, and any other person while in the gambling establishment, each gambling establishment licensed for five or fewer tables shall promptly develop and implement a plan for the gambling establishment that includes, but is not limited to, the following:

- (1) Response plan for fire and other critical incidents.
- (2) Location of a telephone available for placing a 911 emergency call.
- (3) Procedure for securing or protecting the gambling establishment’s cash or equivalent assets and records.
- (4) Facility evacuation routes and procedures.
- (5) A diagram of the establishment showing the exits.
- (6) A description of how exits are marked.

(c) For the purpose of ensuring the physical safety of patrons, employees, and any other person while in the gambling establishment, each gambling establishment licensed for more than five tables shall promptly develop and implement a plan that includes, but is not limited to, the following:

(1) Clear, written policies listing the job titles of the personnel who are responsible for making decisions, monitoring emergency response actions, and securing or protecting the gambling establishment’s cash or equivalent assets and records;

(2) Procedures addressing:

- (A) Fires,
- (B) Earthquakes, Floods and other Natural Disasters,
- (C) Bomb Threats,
- (D) Hazardous Spills or Toxic Exposure,
- (E) Criminal Incidents,
- (F) Other Critical Incidents, and

(G) Provisions for first aid and for obtaining emergency medical assistance for patrons, employees, and other persons while in the gambling establishment;

(3) Specific instructions for stopping business activities;

(4) Facility evacuation procedures, including a designated meeting site outside the facility, a process to account for employees after an evacuation, and a process to ensure that all patrons have been evacuated; and

(5) Specific training and practice schedules.

(d) Each plan shall be consistent with state and local requirements. Beginning November 1, 2004, each licensee shall submit a copy of its current plan as part of its annual renewal application. Beginning January 1, 2005, as part of its annual renewal application, each licensee shall submit two copies of its current plan, and:

(1) If the responsible local authority provides reviews, the licensee shall send documentation of the areas reviewed by the responsible local authority and whether or not the responsible local authority approved those areas of the plan under the responsible local authority’s jurisdiction, pursuant to Health and Safety Code section 13143.5, subdivision

(f). Health and Safety Code section 13143.5, subdivision (f)(2) provides that any fee charged pursuant to the enforcement authority of subdivision (f) shall not exceed the estimated reasonable cost of providing the service for which the fee is charged. The Commission may send one copy of the plan to the Bureau to review those areas of the plan not under the responsible local authority’s jurisdiction.

(2) If the responsible local authority does not provide reviews, the licensee shall send the plan to the State Fire Marshall, and shall send the Commission documentation of whether or not the State Fire Marshall has approved the plan’s fire and panic safety provisions. The Commission shall send one copy of the plan to the Bureau to review either paragraph (3) of subsection (b) or paragraphs (1), (2)(E) and (3) of subsection (c), depending on the number of tables for which the gambling establishment is licensed.

(e) Each licensee shall, at least annually, provide for the review of the requirements of the plan with employees, ensuring that each employee has a general understanding of the provisions of the plan applicable to his or her position and understands his or her specific duties under the plan and the appropriate exit or exits to be used, where applicable. This annual review shall be documented, including signatures by the employee and the licensee or key employee who provided the review, as part of the licensee’s application for renewal. When a new employee begins work, a licensee or key employee shall review the requirements of the plan with the new employee, ensuring that each new employee has a general understanding of the provisions of the plan applicable to his or her position and understands his or her specific duties under the plan and the appropriate exit or exits to be used, where applicable.

(f) If the Commission determines that the licensee’s plan does not address the elements set forth in this section, then the Commission may issue a determination identifying the deficiencies and specifying a time certain within which those deficiencies shall be cured.

(g) Failure by a licensee to develop and implement a plan, or to cure a deficiency identified pursuant to subsection (f), constitutes an unsuitable method of operation and also may result in denial of an application for license renewal or in suspension or revocation of its existing license.

(h) In addition to any other remedy under this section, the Commission may assess a civil penalty of at least \$500 but no more than \$5000 for each violation of this section.

NOTE: Authority cited: Sections 19811, 19824 and 19840, Business and Professions Code. Reference: Sections 19801, 19823, 19841, 19860, 19920 and 19924, Business and Professions Code.

HISTORY

1. New chapter 5 (section 12370) and new section filed 6-16-2003 as an emergency; operative 6-16-2003 (Register 2003, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-14-2003 or emergency language will be repealed by operation of law on the following day.
2. New chapter 5 (sections 12370-12371) and new section with amendments refiled 10-14-2003 as an emergency; operative 10-14-2003 (Register 2003, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-11-2004 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2004, No. 6).
4. New chapter 5 (sections 12370-12371) and new section refiled 2-5-2004 as an emergency; operative 2-5-2004 (Register 2004, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2004 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORIES 2 and 4 (Register 2004, No. 23).
6. New chapter 5 (sections 12370-12371) and new section refiled 6-1-2004 as an emergency; operative 6-1-2004 (Register 2004, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-1-2004 order, including repealer of chapter 5 heading, new article 2 heading and amendment of section heading, section and NOTE, transmitted to OAL 9-28-2004 and filed 11-8-2004 (Register 2004, No. 46).
8. Change without regulatory effect amending subsections (b), (c), (d)(1)-(2) and (f) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12371. Emergency Preparedness and Evacuation Plan; Smaller Establishments.

NOTE: Authority cited: Sections 19811, 19823, 19824, 19840 and 19920, Business and Professions Code. Reference: Sections 19801 and 19920, Business and Professions Code.

HISTORY

1. New section filed 10-14-2003 as an emergency; operative 10-14-2003 (Register 2003, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-11-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2-5-2004 as an emergency; operative 2-5-2004 (Register 2004, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 6-1-2004 as an emergency; operative 6-1-2004 (Register 2004, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6-1-2004 order, including repealer of section, transmitted to OAL 9-28-2004 and filed 11-8-2004 (Register 2004, No. 46).

Article 3. [Reserved]**Article 4. Accounting and Financial Reporting****§ 12400. Definitions.**

(a) Except as otherwise provided in subdivision (b), the definitions in Business and Professions Code section 19805 shall govern the construction of this chapter.

(b) As used in this chapter:

(1) "Authorized game" means a controlled game approved by the Bureau of Gambling Control.

(2) "Dealer's bank" means the total amount of moneys a dealer of the gambling establishment has on deposit with the gambling establishment for chip trays.

(3) "Drop" means the total amount of compensation collected from patrons of a gambling establishment to play in controlled games.

(4) "Fiscal year" means the annual period used by a licensee for financial reporting purposes.

(5) "Group I licensee" means a licensee with a reported gross revenue of \$10 million or more for the preceding fiscal year.

(6) "Group II licensee" means a licensee with a reported gross revenue of \$2 million or more but less than \$10 million for the preceding fiscal year.

(7) "Group III licensee" means a licensee with a reported gross revenue of less than \$2 million for the preceding fiscal year.

(8) "Jackpot" means a gaming activity appended to the play of an authorized game in a gambling establishment in which a prize is awarded based on predetermined criteria.

(9) "Jackpot administrative fee" means a fee to cover all expenses incurred by the licensee for administering a jackpot.

(10) "Licensee" means "owner licensee" as defined in Business and Professions Code section 19805(ac).

(11) "Player's bank" means the total amount of moneys a patron of the gambling establishment has on deposit with the gambling establishment.
NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Sections 19805 and 19841, Business and Professions Code.

HISTORY

1. New chapter 7 (articles 1-4), article 4 (sections 12400-12406) and section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
2. Change without regulatory effect amending subsections (b)(1) and (b)(10) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12401. Accounting Records.

Each licensee shall:

(a) Maintain accurate, complete, and legible records of all transactions pertaining to gross revenue as defined in Business and Professions Code section 19805(q). Records must be maintained in sufficient detail to support the amount of revenue reported to the Commission in renewal applications.

(b) Maintain accounting records identifying the following:

(1) Revenues, expenses, assets, liabilities, and equity for the gambling establishment.

(2) Records of all players' banks, dealers' banks, credit transactions, returned checks, and drop for each table (either by shift or other accounting period).

(3) Records required by the licensee's written system of internal controls.

(4) Records of all jackpot moneys contributed by the gambling establishment, jackpot moneys collected from patrons, or both, and moneys withdrawn for either jackpot administrative fees or payment to patrons.
NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
2. Change without regulatory effect amending subsections (a) and (b)(2) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12402. Chart of Accounts.

Each licensee shall:

(a) Maintain a uniform chart of accounts and accounting classifications in order to ensure consistency, comparability, and effective disclosure of financial information. The chart of accounts shall provide the classifications necessary to prepare a complete set of financial statements including but not limited to a statement of financial position, a statement of operations, a statement of changes in equity, a statement of cash flows, or other statements appropriate for the licensee. If the licensee elects to submit to the Bureau and the Commission copies of its federal income tax return as provided in Section 12403, the chart of accounts shall contain classifications necessary to prepare the licensee's federal income tax return.

(b) Within 90 days of the effective date of these regulations, submit the chart of accounts to the Commission for approval. The Commission shall submit a copy of the chart of accounts to the Bureau for review and comment. The Bureau shall provide the Commission with comments, if any, within 15 days of the submission to the Bureau. If the Bureau does not respond within 15 days, it shall be deemed that the Bureau does not object to the chart of accounts or have comments. The Commission shall then have 30 days to approve, reject, request additional information, or approve with modification(s) the chart of accounts and advise the licensee.

(c) Not use a chart of accounts other than the approved chart of accounts, but may create subaccounts for some or all accounting classifications. The licensee may alter the account numbering system, provided that the licensee maintains and provides to the Commission a cross reference to the approved chart of accounts no later than 30 calendar days following the end of the fiscal year in which the change occurs.

(d) Keep a general ledger, which documents all accounting transactions completed and posted to accounts listed in the chart of accounts referred to in subsection (a) of this section. General accounting records shall be maintained on a double entry system of accounting with recorded transactions supported by detailed subsidiary records, including but not limited to ledgers, invoices, purchase orders, and other source documents.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
2. Change without regulatory effect amending subsections (a)-(b) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12403. Financial Statements and Reporting Requirements.

(a) A licensee shall prepare financial statements covering all financial activities of the licensee's gambling operation for each fiscal year, in accordance with generally accepted accounting principles unless otherwise provided in this section. If the licensee (or a person or entity that has an interest, control, or common control with the licensee) owns or operates lodging, food, beverage, or any other non-gambling operation at the es-

tablishment, the financial statements must reflect the results of the gambling operation separately from those non-gambling operations.

(1) A Group I licensee shall engage an independent accountant licensed by the California Board of Accountancy to audit the licensee's annual financial statements in accordance with generally accepted auditing standards.

(2) A Group II licensee shall engage an independent accountant licensed by the California Board of Accountancy to review the licensee's annual financial statements in accordance with standards for accounting and review services or with currently applicable professional accounting standards. The Bureau or Commission may require the licensee, or the licensee may elect, to engage, an independent accountant licensed by the California Board of Accountancy to audit the annual financial statements in accordance with generally accepted auditing standards, if there are concerns about the licensee's operation or financial reporting, including but not limited to:

- (A) Inadequate internal control procedures;
- (B) Insufficient financial disclosure;
- (C) Material misstatement in financial reporting;
- (D) Inadequate maintenance of financial data; or
- (E) Irregularities noted during an investigation.

(3) A Group III licensee with a gross revenue of \$500,000 or more per year shall prepare financial statements including at a minimum a statement of financial position, a statement of income or statement of operations, and disclosure in the form of notes to the financial statements. If the licensee is unable to produce the financial statements, it shall engage an independent accountant licensed by the California Board of Accountancy to perform a compilation of the licensee's annual financial statements in accordance with standards for accounting and review services or with currently applicable professional accounting standards, including full disclosure in the form of notes to the financial statements. The Bureau or Commission may require the licensee, or the licensee may elect, to engage an independent accountant licensed by the California Board of Accountancy to compile or review the licensee's financial statements in accordance with standards for accounting and review services, or to audit the financial statements in accordance with generally accepted auditing standards, if there are concerns about the licensee's operation or financial reporting, including but not limited to:

- (A) Inadequate internal control procedures;
- (B) Insufficient financial disclosure;
- (C) Material misstatement in financial reporting;
- (D) Inadequate maintenance of financial data; or
- (E) Irregularities noted during an investigation.

(4)(A) A Group III licensee with a gross revenue of less than \$500,000 per year shall prepare financial statements that include, at a minimum, a statement of financial position and a statement of income or statement of operations. If the licensee is unable to produce the financial statements, it shall do one of the following:

1. Engage an independent accountant licensed by the California Board of Accountancy to perform a compilation of the licensee's annual financial statements in accordance with standards for accounting and review services or with currently applicable professional accounting standards and management may elect not to provide footnote disclosures as would otherwise be required by generally accepted accounting principles.

2. Submit to the Bureau and Commission no later than 120 calendar days following the end of the year covered by the federal income tax return, copies of the licensee's complete signed and duly filed federal income tax return for the tax year in lieu of the financial statements as otherwise required under this section.

(B) The Bureau or Commission may require the licensee, or the licensee may elect, to engage an independent accountant licensed by the California Board of Accountancy to compile or review the licensee's financial statements in accordance with standards for accounting and review services, or to audit the financial statements in accordance with generally accepted auditing standards, if there are concerns about the licensee's operation or financial reporting, including but not limited to:

- 1. Inadequate internal control procedures;
- 2. Insufficient financial disclosure;
- 3. Material misstatement in financial reporting;
- 4. Inadequate maintenance of financial data; or
- 5. Irregularities noted during an investigation.

(b) Unless otherwise provided in this section, a licensee shall submit copies of the annual financial statements, with the independent auditor's or accountant's report issued to meet the requirements under this section, to the Bureau and Commission no later than 120 calendar days following the end of the fiscal year covered by the financial statements. If a management letter is issued, a copy of the management letter must also be submitted to the Bureau and Commission, including the licensee's reply to the management letter, if any.

(c) The Bureau or Commission may request additional information and documents from either the licensee or the licensee's independent accountant, regarding the annual financial statements or the services performed by the accountant.

(d) The Bureau or Commission may require the licensee to engage an independent accountant licensed by the California Board of Accountancy to perform a fraud audit in the event that fraud or illegal acts are suspected.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

- 1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
- 2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12404. Records and Reports of Monetary Instrument Transactions.

(a) A gambling establishment, as defined in section 19805(n) of the Business and Professions Code, is required to file a report of each transaction involving currency in excess of \$10,000, in accordance with section 14162(b) of the Penal Code.

(b) A gambling establishment shall comply with sections 5313 and 5314 of Title 31 of the United States Code and with sections 103.21, 103.22, 103.23, 103.63, and 103.64 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(c) A gambling establishment, regardless of gross revenue, shall make and keep on file at the gambling establishment a report of each transaction in currency in excess of \$10,000. These reports shall be available for inspection at any time as requested by the Bureau or the Commission. These reports shall include, but not be limited to:

- (1) Patron's name
- (2) Patron's address
- (3) Patron's identification
- (4) Amount of transaction
- (5) Type of transaction
- (6) Date of transaction.

(d) Nothing in this section shall be deemed to waive or to suspend the requirement that a gambling establishment make and keep a record and file a report of any transaction otherwise required by the Bureau or the Commission.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

- 1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
- 2. Change without regulatory effect amending subsections (a), (c) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12405. Record Retention and Disclosure.

The licensee shall retain within California all records required to be maintained by the Act or by these regulations for at least seven years after the records are made. Upon request of the Bureau or Commission, a licensee shall provide the Bureau or Commission with copies of such records, within the time period specified in the request. If the records are maintained in electronic form and the licensee is requested to do so, the licensee shall provide a printed copy pursuant to this section.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12406. Language.

A licensee shall make and maintain all books, accounts, and other financial records in English.

NOTE: Authority cited: Sections 19811, 19824, 19840 and 19841, Business and Professions Code. Reference: Section 19841, Business and Professions Code.

HISTORY

1. New section filed 8-17-2004; operative 9-16-2004 (Register 2004, No. 34).

Article 6. Program for Responsible Gambling

§ 12460. Article Definitions.

For purposes of this Article:

(a) "Self-Exclusion" means an irrevocable voluntary agreement to be excluded from gambling establishments and all games or gaming activities or privileges and to be prohibited from collecting any winnings or recovering any losses for a specified term. A Self-Exclusion list shall be maintained by the Bureau and shall not be open to public inspection.

(b) "Self-Restriction" means an irrevocable voluntary agreement for a specified term to:

(1) Completely exclude from a particular gambling establishment and all games or gaming activities or privileges and to be prohibited from collecting any winnings or recovering any losses,

(2) Exclude from the play of a particular game or gaming activity, if the gambling establishment determines that such segregation of games is feasible,

(3) Restrict the amount of credit and/or check cashing that may occur at that particular gambling establishment, and/or

(4) Exclude from any marketing or promotional activities of the particular gambling establishment.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Section 19845, Business and Professions Code.

HISTORY

1. New article 6 (sections 12460-12466 and appendix A) and section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).
2. Change without regulatory effect amending subsection (a) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12461. Posting Referral Information.

(a) Each licensee, by July 1, 2007, shall post or provide, at patron gambling entrances or exits, and in conspicuous places in or near gambling areas and any areas where cash or credit are available to patrons, accessible written materials concerning the nature and symptoms of problem gambling and the toll-free telephone number approved by the Office of Problem Gambling (or its successors) that provides information and referral services for problem gamblers, currently "1-800-GAMBLER".

(b) If the licensee operates a web site for the gambling establishment, by July 1, 2007, that web site shall contain a responsible gambling message and a link to the Office of Problem Gambling (or its successors) that provides information and referral services for problem gamblers, currently "http://www.problemgambling.ca.gov".

(c) If the licensee produces any advertising material, by July 1, 2007, such material shall contain a responsible gambling message and shall refer to the telephone number listed in subsection (a) above and/or the link to the web site listed in subsection (b) above.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Sections 19801 and 19920, Business and Professions Code; and Sections 4359.2 and 4369.4, Welfare and Institutions Code.

HISTORY

1. New section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).

§ 12462. Training Requirements.

(a) Each licensee shall implement, by July 1, 2007, procedures to conduct new employee orientations and annual training for all employees, excluding food and beverage servers, who directly interact with gambling patrons in gambling areas.

(b) New employee orientations and annual training shall be documented, including signatures by the employee and the licensee or key employee who coordinated the training, the date and length of the training, and the name of the trainer, as part of the licensee's application for renewal. Copies of this documentation shall be kept in an employee's personnel file for a minimum of five years.

(c) The training shall, at a minimum, consist of information concerning the nature and symptoms of problem gambling behavior, assisting patrons in obtaining information about problem gambling programs, and information on the self-restriction and self-exclusion programs.

(d) Each licensee shall designate personnel responsible for maintaining the program and addressing the types and frequency of such training and procedures.

(e) This section shall not be construed to require employees to identify problem gamblers.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Sections 19801 and 19920, Business and Professions Code; and Sections 4369.2 and 4369.4, Welfare and Institutions Code.

HISTORY

1. New section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).

§ 12463. Self-Restriction Program.

(a) Licensees shall implement, by July 1, 2007, a program that allows patrons to self-limit their access to the gambling establishment entirely, or to the issuance of credit, check cashing, or marketing by that licensee. Such program shall contain, at a minimum, the following:

(1) The development of written materials for dissemination to patrons explaining the program;

(2) The development of written forms allowing patrons to participate in the program, which may include use of a form entitled "Self-Restriction Form," CGCC-036 (Rev. 04/08), attached in Appendix A to this chapter;

(3) Policies and procedures for maintaining and updating a list of self-restricted persons, wherein the confidentiality of the list is protected pursuant to Section 12466 and only agents or employees have access, unless needed by Bureau staff or law enforcement pursuant to an investigation or in assisting in a Problem Gambling program by an entity approved by the Commission;

(4) Policies and procedures that allow a patron to be excluded from certain games or gaming activities within the gambling establishment, if the gambling establishment determines that such segregation of games is feasible, or from the gambling establishment completely during the term of exclusion, with the exception of access for the sole purpose of carrying out the duties of employment, including:

(A) Removal procedures for patrons who attempt entry after requesting to be excluded,

(B) Notification to the Bureau of any incidents of removals where the police and/or security are called to remove a person from the premises, and

(C) Forfeiture of any money or prizes won or any losses recovered by an excluded person and the remittance of such for deposit into the Gambling Addiction Program Fund for problem gambling prevention and treatment services through the Department of Alcohol and Drug Programs, Office of Problem and Pathological Gambling;

(5) Policies and procedures that allow a patron to be excluded from access to check cashing or the issuance of credit during the term of restriction;

(6) Policies and procedures that allow a patron to be excluded from customer lists maintained by the licensee for direct mail marketing, telephone marketing, and other direct marketing regarding gaming opportunities or promotions at the gambling establishment during the term of restriction;

(7) Policies and procedures for removal of a patron from check-cashing, credit, or marketing opportunities by the gambling establishment.

(b) This section does not mandate that a gambling establishment provide the services of a notary public for persons who wish to complete the Self-Restriction form.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section 4369.4, Welfare and Institutions Code.

HISTORY

1. New section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).
2. Change without regulatory effect amending subsections (a)(2)-(3) and (a)(4)(B) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12464. Self-Exclusion Program.

(a) Licensees shall implement, by July 1, 2007, a program that allows patrons to self-exclude themselves from gambling establishments using a form entitled "Self-Exclusion Form," CGCC-037 (Rev. 04/08), attached in Appendix A to this chapter. Such program shall contain, at a minimum, the following:

(1) Policies and procedures for providing Self-Exclusion forms and for sending any completed Self-Exclusion forms to the Bureau;

(2) Policies and procedures for maintaining and updating a list of self-excluded persons, wherein the confidentiality of the list is protected pursuant to Section 12466 and only agents or employees have access, unless needed by Bureau staff or law enforcement pursuant to an investigation or in assisting in a Problem Gambling program by an entity approved by the Commission;

(3) Policies and procedures designed to thwart self-excluded patrons, as noticed by the Commission or Bureau, from entering the gambling area during the term of exclusion, with the exception of access for the sole purpose of carrying out the duties of employment, including removal procedures for patrons who attempt entry after requesting to be excluded and notification to the Bureau of any incidents of removals, where the police and/or security are called to remove a person from the premises;

(4) Policies and procedures for the forfeiture of any money or prizes won or any losses recovered by an excluded person and the remittance of such for deposit into the Gambling Addiction Program Fund for problem gambling prevention and treatment services through the Department of Alcohol and Drug Programs, Office of Problem and Pathological Gambling;

(5) Policies and procedures for removal of a patron from customer lists maintained by the licensee for direct mail marketing, telephone marketing, and other direct marketing regarding gaming opportunities or promotions at the gambling establishment;

(6) Policies and procedures for removal of a patron from check-cashing, credit, or marketing opportunities by the gambling establishment.

(b) This section does not mandate that a gambling establishment provide the services of a notary public for persons who wish to complete the Self-Exclusion form.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section 4369.4, Welfare and Institutions Code.

HISTORY

1. New section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).
2. Change without regulatory effect amending subsections (a)-(a)(3) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12466. Responsible Gambling Program Review.

(a) The Executive Director or Bureau staff may require that any licensee make available for review or submit any of the elements of its program described in this Article, to the Executive Director or Bureau staff for review. If the Commission makes an administrative determination that the licensee's program does not adequately address the standards as set forth in this article, then the Executive Director may issue such a determination identifying the deficiencies and specifying a time certain within which those deficiencies shall be cured. Judicial review of the Executive Director's decision is subject to the limitation of Business and Professions Code section 19804.

(b) Failure by a licensee to establish the programs set forth in this Article, or to cure a deficiency identified pursuant to subsection (a), constitutes an unsuitable method of operation and is in violation of this section.

(c) Protecting the confidentiality of self-restriction or self-exclusion lists includes:

(1) Not willfully disseminating self-excluded or self-restricted patrons' names, photos, or other personally identifying information to third parties or confirming to third parties whether or not a patron is on a self-exclusion or self-restriction list.

(2) Not posting self-excluded or self-restricted patron photos or other personally identifying information in areas where other patrons would readily notice the information.

(d) In addition to any other remedy under the Act, the Commission may assess a monetary penalty not exceeding \$1,000 for each violation of this article.

(e) This article does not create any right or cause of action on behalf of an individual who participates in self-restriction or self-exclusion under this article against the state of California, the California Gambling Control Commission, the Bureau of Gambling Control, the Office of Problem Gambling, or any gambling establishment.

NOTE: Authority cited: Sections 19811, 19840, 19841(o) and 19920, Business and Professions Code. Reference: Sections 19801 and 19920, Business and Professions Code; and Section 4369.4, Welfare and Institutions Code.

HISTORY

1. New section filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).
2. Change without regulatory effect amending subsections (a), (d) and (e) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Appendix A



State of California
California Gambling Control Commission
CGCC-036 (Rev. 04/08)

SELF-RESTRICTION FORM

Type or print (in ink) all information requested on this form.
If additional space is needed, please note response on a separate sheet of paper and attach to the form.

SECTION 1: PERSONAL INFORMATION

Full Legal Name:

First	Middle (if applicable)	Last

Other Names (Former Names (such as Maiden names), Nicknames, or Aliases / A.K.A.'s):

--

Home Address:

Street	City	State	Zip Code

Mailing Address (if different than Home Address):

Street	City	State	Zip Code

Home Telephone Number:

()
---	--	---

Business Number:

()
---	--	---

Games most often played:

--

SECTION 2: RESTRICTION FOR _____ (Name of Cardroom or participating gambling facility)

TOTAL EXCLUSION: Initial Appropriate Term: One Year _____ Five Years _____ Lifetime _____

Please delete me from any MARKETING or PROMOTIONAL information: ☐

Please exclude me from this GAME or GAMING ACTIVITY _____

Please restrict me from any CHECK-CASHING privileges: ☐ Or Limit as follows: _____Please restrict me from any CREDIT : ☐ Or Limit as follows: _____**SECTION 3: PHOTO AND VISUAL DESCRIPTION**Gender: Male ☐ Female ☐ Date of Birth: _____ / _____ / _____ Race/Ethnicity: _____

Height: _____ Weight: _____ Hair Color/Type: _____ Eye Color: _____

Date of Photograph: _____ / _____ / _____ CA Drivers License: _____

Distinguishing marks (such as visible scars or tattoos – describe mark & location):

--

Type of vehicle normally driven:

--

License Plate:

--

AFFIX A RECENT
PASSPORT QUALITY
PHOTOGRAPH
HERE SHOWING
HEAD AND SHOULDERS OF
PERSON TO BE EXCLUDED

SECTION 4: DECLARATION

I understand English or have had an interpreter read and explain this form to me from _____
(Language)

I understand that the ultimate responsibility to limit my access to the Gambling Establishment or participating gambling facility or gaming services in the State of California remains mine alone.

I voluntarily seek to exclude or restrict myself as indicated in Section 2.

If I choose **Total Exclusion**:

Initial Here I agree that I will not attempt to enter and/or use any of the services or privileges of a California Gambling Establishment or participating gambling facility during the period checked in Section 2.

Initial Here I acknowledge and understand that should I attempt to enter a California Gambling Establishment or participating gambling facility or use the services of a Gambling Establishment or participating gambling facility during the Term of Exclusion, once identified, I shall be escorted from the Gambling Establishment or participating gambling facility and any winnings or prizes I may have accrued or losses recovered will be confiscated and remitted by the Gambling Establishment or participating gambling facility for deposit into the Gambling Addiction Program Fund for problem gambling prevention and treatment services through the Department of Alcohol and Drug Programs, Office of Problem and Pathological Gambling.

Initial Here This self-exclusion request is **irrevocable** during the time period checked in Section 2.

I understand that disclosure of certain information is necessary to effect my request for self-exclusion or restriction. Disclosure may also occur if needed for the conduct of an official investigation or if ordered by a court of competent jurisdiction.

I will not seek to hold the Gambling Establishment or participating gambling facility liable in any way should I enter a Gambling Establishment or participating gambling facility and/or use any of the services or privileges therein despite this exclusion/restriction request, and I agree to indemnify the State of California, the California Gambling Control Commission, the Bureau of Gambling Control and the Office of Problem Gambling for any liability relating to this request. Specifically, I for myself, my heirs, executors, administrators, successors, and assigns, hereby release and forever discharge the California Gambling Control Commission, the Bureau of Gambling Control, the Office of Problem Gambling, the Gambling Establishment, participating gambling facility, their agents, employees, officers, and Directors and those with whom they may lawfully share information regarding this exclusion or restriction (collectively, the "Released Parties") from any and all claims in law or equity that I now have, or may have in the future, against all or any of all of the Released Parties arising out of, or by reason of, the performance or non-performance of this self-exclusion/restriction request, or any matter relating thereto. I further agree, in consideration for the Released Parties' efforts to implement my exclusion or restriction, to indemnify and hold harmless the Released Parties to fullest extent permitted by law for any and all liabilities, judgments, damages, and expenses of any kind, including reasonable attorneys' fees, resulting from or in connection with the performance or non-performance of the self-exclusion/restriction requested herein.

I declare that all information submitted on or with this self-restriction form is true, correct, and complete.

Signature: _____

Print Name: _____

Date: _____

SECTION 5: NOTARIZATION

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____.

By _____
☐ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Notary Public Seal:

Signature of Notary Public _____

My Commission expires on: _____

OR

WITNESS BY KEY EMPLOYEE

As a Key Employee of _____, I affirm that on _____ day of _____, 20____,

I witnessed _____
(individual's name)

complete this form and that this person is:

☐ personally known to me OR
☐ proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature of Key Employee _____



State of California
California Gambling Control Commission
CGCC-037 (Rev. 04/08)

State of California Use Only
Date Received: _____
Data Input Date: _____
Date to CGCC: _____

SELF-EXCLUSION FORM

Type or print (in ink) all information requested on this form.

If additional space is needed, please note response on a separate sheet of paper and attach to the form.

You may hand this completed form in to any Cardroom or participating gambling facility, to the Division of Gambling Control, or the California Gambling Control Commission. Or you may mail this completed form to:

California Gambling Control Commission, 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231.

SECTION 1: PERSONAL INFORMATION

Full Legal Name:

First	Middle (if applicable)	Last
-------	------------------------	------

Other Names (Former Names (such as Maiden names), Nicknames, or Aliases / A.K.A.'s):

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Home Address:

Street	City	State	Zip Code
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Mailing Address (if different than Home Address):

Street	City	State	Zip Code
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Home Telephone Number:

()

Business Number:

()

Games most often played:

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SECTION 2: TERM OF EXCLUSION

Please Initial Appropriate Term: One Year _____ Five Years _____ Lifetime _____

SECTION 3: PHOTO AND VISUAL DESCRIPTION

Gender: Male ☐ Female ☐ Date of Birth: ____ / ____ / ____ Race/Ethnicity: _____

Height: _____ Weight: _____ Hair Color/Type: _____ Eye Color: _____

AFFIX A RECENT
PASSPORT QUALITY
PHOTOGRAPH
HERE SHOWING
HEAD AND SHOULDERS OF
PERSON TO BE EXCLUDED

Date of Photograph: ____ / ____ / ____ CA Drivers License: _____

Distinguishing marks (such as visible scars or tattoos – describe mark & location):

--

Type of vehicle normally driven: _____ License Plate: _____

SECTION 4: DECLARATION

I understand English or have had an interpreter read and explain this form to me from _____
(Language)

I voluntarily seek to exclude myself as described checked in Section 2.

(Initial Here) I agree that I will not attempt to enter and/or use any of the services or privileges of a California Gambling Establishment or participating gambling facility during the period checked in Section 2.

(Initial Here) I acknowledge and understand that should I attempt to enter a California Gambling Establishment or participating gambling facility or use the services of a Gambling Establishment or participating gambling facility during the Term of Exclusion, once identified, I shall be escorted from the Gambling Establishment or participating gambling facility and any winnings or prizes I may have accrued or losses recovered will be confiscated and remitted by the Gambling Establishment or participating gambling facility for deposit into the Gambling Addiction Program Fund for problem gambling prevention and treatment services through the Department of Alcohol and Drug Programs, Office of Problem and Pathological Gambling.

I understand that the ultimate responsibility to limit my access to the Gambling Establishment or participating gambling facility or gaming services in the State of California remains mine alone.

(Initial Here) This self-exclusion request is **irrevocable** during the time period checked in Section 2.

I understand that disclosure of certain information is necessary to effect my request for self-exclusion. I understand that my information will be added to a statewide exclusion database. Disclosure may also occur if needed for the conduct of an official investigation or if ordered by a court of competent jurisdiction.

I will not seek to hold the Gambling Establishment or participating gambling facility liable in any way should I enter a Gambling Establishment or participating gambling facility and/or use any of the services or privileges therein despite this exclusion request, and I agree to indemnify the State of California, the California Gambling Control Commission, the Bureau of Gambling Control, and the Office of Problem Gambling for any liability relating to this request. Specifically, I for myself, my heirs, executors, administrators, successors, and assigns, hereby release and forever discharge the California Gambling Control Commission, the Bureau of Gambling Control, the Office of Problem Gambling, the Gambling Establishment or participating gambling facility, their agents, employees, officers, and Directors and those with whom they may lawfully share information regarding this exclusion (collectively, the "Released Parties") from any and all claims in law or equity that I now have, or may have in the future, against all or any of all of the Released Parties arising out of, or by reason of, the performance or non-performance of this self-exclusion request, or any matter relating thereto. I further agree, in consideration for the Released Parties' efforts to implement my exclusion, to indemnify and hold harmless the Released Parties to fullest extent permitted by law for any and all liabilities, judgments, damages, and expenses of any kind, including reasonable attorneys' fees, resulting from or in connection with the performance or non-performance of the self-exclusion requested herein.

I declare that all information submitted on or with this self-exclusion form is true, correct, and complete.

Signature: _____

Print Name: _____

Date: _____

SECTION 5: NOTARIZATION

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____.

By _____
☐ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Notary Public Seal:

Signature of Notary Public _____

My Commission expires on: _____ / _____ / _____

OR

WITNESS BY KEY EMPLOYEE

As a Key Employee of _____ (name of Establishment or participating facility), I affirm that on _____ day of _____, 20____,

I witnessed _____ (individual's name)

complete this form and that this person is:

☐ personally known to me OR
☐ proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature of Key Employee _____

HISTORY

1. New appendix A filed 1-30-2007; operative 3-5-2007 (Register 2007, No. 5).

2. Change without regulatory effect amending Appendix A filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Chapter 10. Discipline, Hearings, and Decisions

§ 12550. Purpose and Scope.

(a) The purpose of this chapter is to set forth disciplinary procedures and guidelines applicable to the holder of any license, registration, permit, finding of suitability, or approval issued by the Commission. This chapter does not apply to any denial proceedings under the Act.

(b) The disciplinary guidelines in this chapter are designed to promote fairness and flexibility in dealing with a wide range of disciplinary scenarios. Variation in penalties based on circumstances and factors in aggravation or mitigation are part of this disciplinary scheme to promote compliance with applicable laws and regulations.

(c) Nothing in this chapter is intended to limit the authority of the Commission to issue orders of summary suspension pursuant to Business and Professions Code section 19913, or to limit the authority of the Bureau to issue emergency orders pursuant to Business and Professions Code section 19931.

(d) Nothing in this chapter shall be construed to prevent the Commission from:

(1) Ordering an investigation by Commission staff on a matter brought before the Commission;

(2) Instituting a civil action in any superior court to restrain a violation of the Act, pursuant to Business and Professions Code section 19824, subdivision (g);

(3) Referring a matter to the Attorney General or any district attorney or city attorney for civil, criminal or administrative action; or

(4) Requesting the Bureau to conduct an investigation pursuant to information gathered independently by the Commission or supplied to it by a third party.

(e) Nothing in this chapter precludes any person from notifying the Commission or the Bureau regarding any violations of law or reasons why the holder of any license, registration, permit, finding of suitability, or approval should be disciplined.

(f) Nothing in this chapter precludes the Bureau, in its discretion, from issuing warning notices, notices to cure, advisory letters regarding violations or possible violations of law, or from withdrawing such upon further investigation.

NOTE: Authority: Sections 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19823, 19912, 19913, 19914, 19920, 19922, 19930, 19931 and 19984, Business and Professions Code.

HISTORY

1. New chapter 10 (sections 12550–12572) and section filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).

2. Change without regulatory effect amending subsections (a), (c), (d)(2), (d)(4) and (e)–(f) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12552. Settlements.

(a) At any time, the Commission and respondent may enter into a settlement of the accusation as provided in this section.

(b) Any settlement of an accusation shall include a plan for immediate abatement of the violation, a plan for immediate compliance with all statutory and regulatory requirements, an agreement to any penalty imposed, and shall be a full and final settlement of the violation including a complete waiver of all judicial or other review unless otherwise agreed to by the Commission.

(c) Any settlement of an accusation shall be submitted by the Bureau for approval by the Commission at a noticed Commission meeting. The Commission shall have final approval authority concerning any such settlement. If the Commission rejects a settlement or agreement, and no amended agreement or settlement is reached before two additional regularly noticed Commission meetings have concluded, or sixty days have elapsed, whichever is later, the Bureau shall proceed with the formal hearing process under this chapter.

NOTE: Authority: Sections 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19824, 19826, 19920 and 19930, Business and Professions Code.

HISTORY

1. New section filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).

2. Change without regulatory effect amending subsection (c) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12554. Formal Hearing Process.

(a) Upon the filing with the Commission of an accusation by the Bureau recommending revocation, suspension, or other discipline of a holder of a license, registration, permit, finding of suitability, or approval, the Commission shall proceed under Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Discipline shall be in accordance with the guidelines of this chapter, summarized for convenience only in CGCC–12554 (New 09–06), Summary Chart of Disciplinary Guidelines, attached as Appendix A to this chapter.

(b) In the event that the Bureau cannot present the accusation, the Commission may request outside counsel or representation by another state agency or may adequately segregate one or more Commission staff members from the Commissioners and Commission legal unit to present the accusation.

(c) The Administrative Law Judge and Commission shall base their decisions on written findings of fact, including findings concerning any relevant aggravating or mitigating factors. Findings of fact shall be based upon a preponderance of the evidence standard. The “preponderance of the evidence standard” is such evidence as when considered and compared with that opposed to it, has more convincing force, and produces a belief in the mind of the fact-finder that what is sought to be proved is more likely true than not true.

(d) Upon a finding of a violation of the Act, any regulations adopted pursuant thereto, any law related to gambling or gambling establishments, violation of a previously imposed disciplinary or license condition, or laws whose violation is materially related to suitability for a license, registration, permit, or approval, the Commission may do any one or more of the following:

(1) Revoke the license, registration, permit, finding of suitability, or approval;

(2) Suspend the license, registration, or permit;

(3) Order the licensing authority of a city, county, or city and county to revoke a work permit, pursuant to Business and Professions Code section 19914, subdivision (a),

(4) Impose any condition, limitation, order, or directive (including but not limited to a directive to divest an interest in a business entity pursuant to Business and Professions Code, section 19879);

(5) Impose any fine or monetary penalty consistent with Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b);

(6) Stay, in whole or in part, the imposition of a revocation or suspension against the holder of a license, registration, work permit, finding of suitability, or approval, or

(7) Order the holder to pay a monetary penalty in lieu of all or a portion of a suspension. Within the guidelines of Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b):

(A) If the respondent is an owner licensee of a gambling establishment, the monetary penalty shall be equivalent of fifty percent of the average daily gross gaming revenue, but not less than \$300, for the number of days for which the suspension is stayed.

(B) [RESERVED]

(C) If the respondent is an owner of a third-party provider of proposition player services and the violation did not involve a fraudulent, expired, borrowed, or stolen badge, and did not involve a non-registered or non-licensed employee of the owner, the monetary penalty shall be the sum of \$500 plus the total of \$100 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum

shall be multiplied by the number of days for which the suspension is stayed.

(D) If the respondent is an owner of a third-party provider of proposition player services and the violation involved a fraudulent, expired, borrowed, or stolen badge, or involved a non-registered or non-licensed employee of the owner, the monetary penalty shall be the sum of \$500 plus the total of \$300 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.

(E) If the respondent is an owner of a gambling business, the monetary penalty shall be \$1500 per day for the number of days for which the suspension is stayed.

(F) If the respondent is a key employee of a gambling establishment or a supervisor of a gambling business or third-party provider of proposition player services, the monetary penalty shall be \$100 per day for the number of days for which the suspension is stayed.

(G) If the respondent is a holder of a work permit, a player or other employee of a gambling business or third-party provider of proposition player services, or a person not otherwise described above, the monetary penalty shall be \$50 per day for the number of days for which the suspension is stayed.

(e) If a person's state gambling license for a gambling establishment is revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the gambling establishment, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might directly or indirectly be due to such person or which arise out of, are attributable to, or are derived from controlled gambling.

(f) If an owner of a third-party provider of proposition player services or gambling business has his or her owner's license or registration revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the third-party provider of proposition player services or gambling business, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might directly or indirectly be due to such person or which arise out of, are attributable to, or are derived from the provision of proposition player services.

(g) For decisions concerning a gambling establishment, findings shall be made regarding the number of tables in operation at the establishment and the annual gross gaming revenue of the establishment.

(h) For decisions concerning an owner of a third-party provider of proposition player services, findings shall be made regarding the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged.

(i) Any order to pay the costs of investigation or prosecution of the case shall be fixed pursuant to Business and Professions Code section 19930, subdivision (d).

(j) For multiple violations, or for suspensions imposed by other jurisdictions based on the same violations, the decision shall state whether any Commission-imposed suspensions shall run consecutively or concurrently.

(k) Where a violation arises from a practice that is repeated many times an hour or day in the conduct of controlled games, each instance of the practice shall not be charged as a separate violation; however, the frequency and duration of the practice shall be treated as aggravating or mitigating factors.

NOTE: Authority: Sections 19824, 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19879, 19930 and 19984, Business and Professions Code; Section 11045, Government Code; and Section 10335, Public Contract Code.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).
2. Change without regulatory effect amending subsections (a)-(b) and (d) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12556. Factors in Mitigation or Aggravation of Penalty.

Factors in mitigation may reduce a minimum penalty of suspension listed in this chapter, either in number of days suspended and/or in the proposal to stay a suspension for a period of probation and the payment of any monetary penalty. Factors in aggravation may increase a penalty or be taken into consideration in determining whether or not to allow a suspension to be stayed upon payment of a monetary penalty. If presented by complainant or respondent, the Commission shall consider the following factors in mitigation or aggravation of the penalty imposed:

(a) Violation of any previously imposed or agreed upon condition, restriction or directive.

(b) Whether or not the conduct was knowing, willful, reckless, or inadvertent.

(c) The extent to which respondent cooperated with the Bureau or Commission during the investigation of the violation.

(d) The extent to which respondent was honest with the Bureau or Commission during the investigation of the violation.

(e) The extent to which respondent is willing to reimburse or otherwise make whole any person who has suffered a loss due to the violation.

(f) Whether respondent has initiated remedial measures to prevent similar violations.

(g) The extent to which respondent realized an economic gain from the violation.

(h) Disciplinary history of respondent, repeated offenses of the same or similar nature, or evidence that the unlawful act was part of a pattern or practice, including the frequency or duration of any pattern or practice which violates applicable law.

(i) Any other aggravating factors, including any factors which the Commission determines to bear on the health, safety, or welfare of the public.

(j) The extent to which there was actual or potential harm to the public or to any patron.

(k) The extent to which an owner licensee or key employee of a gambling establishment, owner or supervisor of a third-party provider of proposition player services, or owner or supervisor of a gambling business exercised due diligence in management or supervision.

(l) If the violation was caused by an employee of a third-party provider of proposition player services or gambling business, the extent to which the owner licensee, licensee, or registrant knew or should have known of the employee's improper conduct; the level of authority of the employee involved and the extent to which the employee acted within the scope of his or her authority in committing the violation.

(m) If the violation was caused by a third-party provider of proposition player services or gambling business, the extent to which the owner licensee or gambling establishment knew or should have known of the improper conduct.

(n) If the violation was caused by an independent contractor of a gambling business, the extent to which the gambling business owner licensee, licensee, or registrant knew or should have known of the independent contractor's improper conduct; the level of authority of the independent contractor involved and the extent to which the independent contractor acted within the scope of his or her authority in committing the violation.

(o) If the violation was caused or committed by a third party, the extent to which the owner licensee, licensee, or registrant knew or should have known of the third party's improper conduct.

(p) Any relevant evidence offered by respondent in mitigation of the violation.

NOTE: Authority: Sections 19825, 19840 and 19930, Business and Professions Code. Reference: Sections 19825, 19920, 19930 and 19984, Business and Professions Code.

HISTORY

1. New section filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).
2. Change without regulatory effect amending subsections (c)–(d) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12558. Disciplinary Guidelines for Holders of Work Permits.

Pursuant to Business and Professions Code, section 19914, the holder of a work permit shall be subject to a minimum penalty of a three-day suspension, which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter, up to a maximum penalty of revocation by the Commission if the Commission finds that the holder:

- (a) Engaged in or committed a prohibited act specified in Business and Professions Code 19914, subdivision (a).
- (b) Does not currently meet any criterion for eligibility or qualification.
- (c) Violated or is in violation of any condition, limitation or directive previously imposed on the work permit.
- (d) Violated or is in violation of any Commission or Bureau regulations, including those regulations regarding work permits in the California Code of Regulations, Title 4, Division 18, Chapter 2 (commencing with Section 12100).

NOTE: Authority: Sections 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Section 19824, 19878, 19912, 19914, 19920 and 19930, Business and Professions Code.

HISTORY

1. New section filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).
2. Change without regulatory effect amending first paragraph and subsection (d) filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12560. Disciplinary Guidelines for Third-Party Providers of Proposition Player Services Licensees or Registrants.

(a) If the Commission finds that an owner of a third-party provider of proposition player services, as that term is used in California Code of Regulations, Title 4, Section 12200, is out of compliance with any mandatory duty specified in or imposed by the Act or any Commission or Bureau regulation, which is not otherwise listed in these disciplinary guidelines, the penalty shall be one day of suspension of proposition player services from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or aggravation apply and which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter.

(b) A license or registration granted by the Commission for an owner of a third-party provider of proposition player services, as that term is used in California Code of Regulations, Title 4, Section 12200, shall be subject to a minimum discipline of suspension of five days from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or aggravation apply, and a maximum discipline of revocation, which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter, if the Commission finds that:

- (1) The owner has violated or is out of compliance with any conditions, limitations, orders, or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,
- (2) The owner has been found, by any administrative tribunal or court, to have violated or be in violation of any law involving or relating to gambling,
- (3) The owner has intentionally misrepresented a material fact on an application or supplemental application for licensure or registration,
- (4) The owner has engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling or the provision of proposition player services,

(5) The owner has violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982,

(6) The owner has violated California Code of Regulations, Title 4, regarding annual fees for third party providers of proposition player services,

(7) The owner has provided proposition player services in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (b)(9) or (b)(11),

(8) The owner has failed to fully disclose financial arrangements in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (b)(15),

(9) The primary owner has failed to report cheating, in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (b)(18),

(10) The owner has purchased, leased, or controlled equipment in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (b)(21),

(11) The owner has failed to have the proposition player contract approved, in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (b)(22), or Section 12200.9,

(12) The owner has authorized or provided payment to or receipt by the gambling establishment, in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (c),

(13) The owner has been cheating, or has induced or instructed another to cheat, pursuant to Penal Code, sections 337t, 337u, 337v, 337w, or 337y,

(14) The owner has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),

(15) The owner has committed loan-sharking (as that term is used in Civil Code section 1916–3, subdivision (b)),

(16) The owner has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),

(17) The owner has committed bribery (as that term is used in Penal Code section 67 or 67.5),

(18) The owner has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with section 186.9),

(19) The owner has granted rebates to patrons without full disclosure, in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (c)(19),

(20) The owner has violated the provisions regarding playing books listed in California Code of Regulations, Title 4, Section 12200.13,

(21) The owner has committed any of the acts listed in California Code of Regulations, Title 4, Section 12200.18, subsections (a), (b), (d), (e), (f), (i), (j), (l), (m), or (n), or

(22) The owner is providing services as a gambling business without first obtaining a gambling business registration or license, in violation of California Code of Regulations, Title 4, Section 12220 et seq.

(c) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12200, shall be subject to a minimum monetary penalty of \$100 and/or a suspension of three days and a maximum penalty of revocation if the Commission finds that:

(1) The supervisor, player, or other employee has violated or is out of compliance with conditions, limitations, or orders or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,

(2) The supervisor, player, or other employee has engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling or the provision of proposition player services,

(3) The supervisor, player, or other employee has committed any act punishable as a crime, not otherwise listed in these disciplinary guidelines, which substantially relates to the duties and qualifications of the li-

censee or registrant, or which occurred in a gambling establishment or the associated adjacent property, or

(4) The supervisor, player, or other employee has engaged in any conduct on the premises of the gambling establishment or in connection with controlled gambling or the provision of proposition player services which is inimical to the health, welfare, or safety of the general public.

(5) The supervisor, player, or other employee has either failed to wear a badge, worn a badge which was covered, worn a false or altered badge or a badge issued for a different gambling establishment, worn another person's badge, or worn an expired badge.

(6) The supervisor, player, or other employee has engaged in fighting or has intentionally provoked a patron or employee at a gambling establishment.

(7) The supervisor, player, or other employee has maliciously or willfully destroyed or damaged the property of the gambling establishment, employee, or patron.

(8) The supervisor, player, or other employee has accepted tips, gratuities, complimentaries, or gifts from gambling establishment staff or patrons

(9) The supervisor, player, or other employee has committed any of the acts listed in California Code of Regulations, Title 4, Section 12220.18, subsection (a), or

(10) The supervisor, player, or other employee has failed to comply with California Code of Regulations, Title 4, Section 12200.21.

(d) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12200, shall be subject to a minimum monetary penalty of \$300 and/or a suspension of five days and a maximum penalty of revocation if the Commission finds that:

(1) The supervisor, player, or other employee has intentionally misrepresented a material fact on an application, request to convert, or supplemental application for licensure, registration, or approval.

(2) The supervisor, player, or other employee has been cheating, pursuant to Penal Code, section 337x,

(3) The supervisor, player, or other employee has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),

(4) The supervisor, player, or other employee has committed loan-sharking (as that term is used in Civil Code section 1916–3, subdivision (b)),

(5) The supervisor, player, or other employee has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),

(6) The supervisor, player, or other employee has committed bribery (as that term is used in Penal Code section 67 or 67.5),

(7) The supervisor, player, or other employee has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with section 186.9),

(8) The supervisor, player, or other employee has granted rebates to patrons without full disclosure, in violation of California Code of Regulations, Title 4, Section 12200.7, subsection (19), or

(9) The supervisor, player, or other employee has committed any of the acts listed in California Code of Regulations, Title 4, Section 12200.18, subsections (b), (c), (d), (f), (g), (h), (i), (j), or (k).

(e) A license or registration granted by the Commission for an owner of a third-party provider of proposition player services, or for a supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12200, shall be subject to revocation if the Commission finds that:

(1) The owner, supervisor, player, or other employee has been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure, or

(2) The owner, supervisor, player, or other employee no longer meets any criterion for eligibility, pursuant to California Code of Regulations, Title 4, Sections 12204 or 12218.11.

NOTE: Authority: Sections 19825, 19840, 19841, 19930 and 19984, Business and Professions Code. Reference: Sections 19824 and 19930, Business and Professions Code.

HISTORY

1. New section filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).
2. Change without regulatory effect amending section filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12562. Disciplinary Guidelines for Gambling Business Licensees or Registrants.

(a) If the Commission finds that an owner of a gambling business, as that term is used in California Code of Regulations, Title 4, Section 12220, is out of compliance with any mandatory duty specified in or imposed by the Act or any Commission or Bureau regulation, which is not otherwise listed in these disciplinary guidelines, the penalty shall be one day of suspension of gambling business services from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or aggravation apply and which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter.

(b) A license or registration granted by the Commission for an owner of a gambling business, as that term is used in California Code of Regulations, Title 4, Section 12220, shall be subject to a minimum monetary penalty of \$2500 and/or a discipline of suspension of five days from either specified gambling establishments or all gambling establishments, as the circumstances and factors in mitigation or aggravation apply, and a maximum discipline of revocation by the Commission if the Commission finds that:

(1) The owner has violated or is out of compliance with any conditions, limitations, orders, or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,

(2) The owner has been found, by any administrative tribunal or court, to have violated or be in violation of any law involving or relating to gambling,

(3) The owner has intentionally misrepresented a material fact on an application or supplemental application for licensure or registration,

(4) The owner has engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling or the provision of proposition player services as a gambling business,

(5) The owner has violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982,

(6) The owner has violated California Code of Regulations, Title 4, regarding annual fees for gambling businesses,

(7) The owner has been cheating, or has induced or instructed another to cheat, pursuant to Penal Code, sections 337t, 337u, 337v, 337w, or 337y,

(8) The owner has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),

(9) The owner has committed loan-sharking (as that term is used in Civil Code section 1916–3, subdivision (b)),

(10) The owner has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),

(11) The owner has committed bribery (as that term is used in Penal Code section 67 or 67.5),

(12) The owner has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with section 186.9),

(13) The owner is providing services as a gambling business without first obtaining a gambling business registration or license, in violation of California Code of Regulations, Title 4, Section 12220 et seq., or

(14) The owner has committed any of the acts listed in California Code of Regulations, Title 4, Section 12220.18, subsections (a), (b), (d), (e), (f), (l), or (m).

(c) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12220, shall be subject to a minimum monetary penalty of \$100 and/or a suspension of three days and a maximum penalty of revocation if the Commission finds that:

(1) The supervisor, player, or other employee has violated or is out of compliance with conditions, limitations, or orders or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,

(2) The supervisor, player, or other employee has engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling,

(3) The supervisor, player, or other employee has committed any act punishable as a crime, not otherwise listed in these disciplinary guidelines, which substantially relates to the duties and qualifications of the licensee or registrant, or which occurred in a gambling establishment or the associated adjacent property,

(4) The supervisor, player, or other employee has engaged in any conduct on the premises of the gambling establishment or in connection with controlled gambling which is inimical to the health, welfare, or safety of the general public.

(5) The supervisor, player, or other employee has either failed to wear a badge, worn a badge which was covered, worn a false or altered badge or a badge issued for a different gambling establishment, worn another person's badge, or worn an expired badge,

(6) The supervisor, player, or other employee has engaged in fighting or has intentionally provoked a patron or employee at a gambling establishment,

(7) The supervisor, player, or other employee has maliciously or willfully destroyed or damaged the property of the gambling establishment, employee, or patron,

(8) The supervisor, player, or other employee has accepted tips, gratuities, complimentaries, or gifts from gambling establishment staff or patrons,

(9) The supervisor, player, or other employee has committed any of the acts listed in California Code of Regulations, Title 4, Section 12220.18, subsection (a), or

(10) The supervisor, player, or other employee has failed to comply with California Code of Regulations, Title 4, Section 12220.21.

(d) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12220, shall be subject to a minimum penalty of a monetary penalty of \$300 and/or a suspension of five days and a maximum penalty of revocation if the Commission finds that:

(1) The supervisor, player, or other employee has intentionally misrepresented a material fact on an application, request to convert, or supplemental application for licensure, registration, or approval,

(2) The supervisor, player, or other employee has been cheating, pursuant to Penal Code, section 337x,

(3) The supervisor, player, or other employee has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),

(4) The supervisor, player, or other employee has committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)),

(5) The supervisor, player, or other employee has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),

(6) The supervisor, player, or other employee has committed bribery (as that term is used in Penal Code section 67 or 67.5),

(7) The supervisor, player, or other employee has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with section 186.9),

(8) The supervisor, player, or other employee has committed any of the acts listed in California Code of Regulations, Title 4, Section 12220.18 subsections (c), (d), (f), (g), (h), (i), (j), or (k).

(e) A license or registration granted by the Commission for an owner of a gambling business, or for a supervisor, player, or other employee, as those terms are used in California Code of Regulations, Title 4, Section 12220, shall be subject to revocation if the Commission finds that:

(1) The owner, supervisor, player, or other employee has been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure, or

(2) The owner, supervisor, player, or other employee no longer meets any criterion for eligibility, pursuant to California Code of Regulations, Title 4, Sections 12224 or 12220.11.

NOTE: Authority: Sections 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19853(a)(3) and 19930, Business and Professions Code.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12564. Disciplinary Guidelines for Manufacturers or Distributors.

A registration granted by the Commission for a manufacturer or distributor of gambling equipment shall be subject to suspension or revocation by the Commission if the Commission finds that the registrant has violated California Code of Regulations, Title 4, Section 12303, subsection (b).

NOTE: Authority: Sections 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Section 19930, Business and Professions Code.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).
2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12566. Disciplinary Guidelines for Gambling Establishments.

(a) If the Commission finds that a gambling establishment is out of compliance with any mandatory duty specified in or imposed by the Act or any Commission or Bureau regulation, or any local ordinance which directly affects the public health, safety, or welfare, which is not otherwise listed in these disciplinary guidelines, pursuant to Business and Professions Code section 19922, the penalty shall be one day of suspension, stayed upon the payment of a penalty, within the guidelines of Business and Professions Code, sections 19930, subdivision (c), and 19943, subdivision (b), as follows:

(1) If the establishment has five tables or less and has an annual gross gaming revenue up to and including \$10,000, the penalty shall be between \$50 and \$100, based upon the factors in mitigation and aggravation.

(2) If the establishment has ten tables or less or has an annual gross gaming revenue over \$10,000, up to and including \$200,000, the penalty shall be between \$100 and \$2000, based upon the factors in mitigation and aggravation.

(3) If the establishment has an annual gross gaming revenue over \$200,000, the penalty shall be between \$250 and \$5,000, based upon the factors in mitigation and aggravation.

(b) A state gambling license for a gambling establishment granted by the Commission shall be subject to a minimum discipline of suspension for one day of normal business operation and a maximum discipline of suspension for 30 days of normal business operation, which may be stayed on terms and conditions and upon a monetary penalty of twenty-five percent of the average daily gross gaming revenue, not more than \$10,000, but not less than \$300, if the Commission finds that the estab-

lishment has violated any of the following but has not been disciplined by the Commission for such a violation previously:

(1) Been found, by any administrative tribunal or court in a separate proceeding, to have violated or be in violation of any law involving or relating to gambling, where the penalty imposed was a monetary fine or citation,

(2) Failed to maintain adequate financing for chips in use or for player banks,

(3) [RESERVED]

(4) [RESERVED]

(5) Violated Business and Professions Code, section 19878 (contract with, employment of, services provided by person(s) with denied, suspended, or revoked license or registration),

(6) Violated Business and Professions Code, section 19912 (failure to have valid work permit),

(7) [RESERVED]

(8) Violated Business and Professions Code, section 19924 (failure to maintain security controls),

(9) Violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982,

(10) Provided false or incomplete financial data, in violation of California Code of Regulations, Title 4, Chapter 7, Article 4 (commencing with Section 12400), regarding accounting and financial reporting,

(11) Refused to allow Bureau or Commission inspection of records or information required to be maintained pursuant to California Code of Regulations, Title 4, Chapter 7, Article 4 (commencing with Section 12400), regarding accounting and financial reporting,

(12) Violated California Code of Regulations, Title 11, Section 2050, subsection (a) (failure to maintain owner licensee or key employee on premises),

(13) Violated California Code of Regulations, Title 11, Section 2052 (failure to furnish information), or

(14) Violated California Code of Regulations, Title 11, Section 2070 (unsuitable gaming activities).

(c) A state gambling license for a gambling establishment granted by the Commission shall be subject to a minimum discipline of suspension for five days of normal business operation and a maximum discipline of revocation, which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter, if the Commission finds that the establishment has:

(1) Violated or is out of compliance with conditions, limitations, or orders or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,

(2) Been found, by any administrative tribunal or court in a separate proceeding, to have violated or be in violation of any law involving or relating to gambling, where the penalty imposed was the suspension or revocation of a license or privilege,

(3) Intentionally misrepresented a material fact on an application or supplemental application for licensure or registration,

(4) Failed to maintain adequate financing for chips in use or for player banks, and has been disciplined by the Commission for such a violation previously,

(5) Failed to report the operation of unregistered gambling businesses when the owners or management of the establishment knew or should have known that these gambling businesses were operating in the establishment, and has been disciplined by the Commission for such a violation previously,

(6) Concealed or persistently did not disclose ownership, interest, or key employee status, pursuant to Business and Professions Code, sections 19850, 19851, 19853, 19854, 19855, 19883, or 19901,

(7) Violated Business and Professions Code, section 19878 (contract with, employment of, services provided by person(s) with denied, suspended, or revoked license or registration), and has been disciplined by the Commission for such a violation previously,

(8) Violated Business and Professions Code, section 19912 (failure to have valid work permit), and has been disciplined by the Commission for such a violation previously,

(9) Violated Business and Professions Code, section 19921 (failure to exclude persons under 21 from access to gambling areas), and has been disciplined by the Commission for such a violation previously, or violated Business and Professions Code, section 19941 (failure to prohibit persons under 21 from gambling, loitering, being employed in gambling areas, or using fraudulent identification to gamble, loiter, or be employed), unless the licensee provides the defense described in Business and Professions Code, section 19941, subdivision (c), or unless the licensee shows that the licensee has reasonably relied on picture identification which appears to be government issued, including determining that the identification looks real, there are no obvious alterations, the photograph and description reasonably match the person, and the person reasonably looks age 21 or over.

(10) Violated Business and Professions Code, section 19924 (failure to maintain security controls), and has been disciplined by the Commission for such a violation previously,

(11) Violated Business and Professions Code, section 19942 (willful failure to report or pay license fee),

(12) Violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982, and has been disciplined by the Commission for such a violation previously,

(13) Provided false or intentionally incomplete financial data, in violation of California Code of Regulations, Title 4, Chapter 7, Article 4 (commencing with Section 12400), regarding accounting and financial reporting, and has been disciplined by the Commission for such a violation previously,

(14) Refused to allow Bureau or Commission inspection of records or information required to be maintained pursuant to California Code of Regulations, Title 4, Chapter 7, Article 4 (commencing with Section 12400), regarding accounting and financial reporting, and has been disciplined by the Commission for such a violation previously,

(15) Violated California Code of Regulations, Title 11, Section 2050, subsection (a) (failure to maintain owner licensee or key employee on premises), and has been disciplined by the Commission for such a violation previously,

(16) Violated California Code of Regulations, Title 11, Section 2052 (failure to furnish information), and has been disciplined by the Commission for such a violation previously, or

(17) Violated California Code of Regulations, Title 11, Section 2070 (unsuitable gaming activities), and has been disciplined by the Commission for such a violation previously.

NOTE: Authority: Sections 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19823, 19824, 19850, 19851, 19853, 19854, 19855, 19875, 19878, 19883, 19901, 19912, 19920, 19921, 19922, 19923, 19924, 19930, 19941, 19942 and 19982, Business and Professions Code; and *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board* (2004), 118 Cal. App. 4th 1429, 1444-1445.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).

2. Change without regulatory effect amending section filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12568. Disciplinary Guidelines for Holders of Licenses, Findings of Suitability, or Approvals.

(a) A license for an individual or any finding of suitability or approval granted by the Commission, other than a work permit, and an owner license for a gambling establishment if the owner licensee has committed a separate violation from any violations committed by the gambling establishment shall be subject to a minimum discipline of suspension for one day of normal business operation and a maximum discipline of revocation, which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter, if the Commission finds that the holder has:

(1) Violated or is out of compliance with conditions, limitations, or orders or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,

(2) Been found, by any administrative tribunal or court in a separate proceeding, to have violated or be in violation of any law involving or relating to gambling, where the penalty imposed was a monetary fine or citation,

(3) Been convicted in any jurisdiction of any offense involving or relating to gambling, where the penalty imposed was a monetary fine,

(4) Engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling,

(5) Committed any act punishable as a crime, not otherwise listed in these disciplinary guidelines, which substantially relates to the duties and qualifications of the licensee or registrant, or which occurred in a gambling establishment or the associated adjacent property, or

(6) Engaged in any conduct on the premises of the gambling establishment or in connection with controlled gambling that is inimical to the health, welfare, or safety of the general public.

(b) A license, finding of suitability, or approval granted by the Commission, other than a work permit, and an owner license for a gambling establishment if the owner licensee has committed a separate violation from any violations committed by the gambling establishment shall be subject to a minimum discipline of suspension for five days of normal scheduled work and a maximum discipline of revocation, which may be stayed on terms and conditions and any monetary penalty as described in Section 12554(d)(7) of this chapter, if the Commission finds that the holder has:

(1) Intentionally misrepresented a material fact on an application or supplemental application for licensure or registration,

(2) Intentionally provided untruthful responses during an investigation by the Bureau, pursuant to Business and Professions Code, section 19827,

(3) Willfully interfered with the performance of Commission or Bureau duties, pursuant to Business and Professions Code, section 19944,

(4) Committed an act prohibited by Chapter 9 (commencing with section 319) and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code, including but not limited to operation of a banked or percentage game (Penal Code, section 330), possession or sale of a slot machine (Penal Code, section 330b) or agreement for slot machine payout (Penal Code, section 330.1), bookmaking (Penal Code, section 337), and cheating (Penal Code, section 337x),

(5) Committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),

(6) Committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)),

(7) Conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),

(8) As an owner licensee, not taken reasonable steps to prevent the crimes listed in subsection (b), paragraphs (5) through and including (7), from occurring at the gambling establishment, when the owner licensee knew or should have known that these crimes were being committed,

(9) Committed bribery (as that term is used in Penal Code section 67 or 67.5),

(10) Committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with section 186.9),

(11) Been convicted of a crime involving fiscal dishonesty, including but not limited to tax evasion (26 U.S.C. § 7201),

(12) Been convicted in any jurisdiction of any offense involving or relating to gambling, where the penalty imposed was more than a monetary fine, or

(13) Been found, by any administrative tribunal or court in a separate proceeding, to have violated or be in violation of any law involving or relating to gambling, where the penalty imposed was the suspension or revocation of a license or privilege,

(c) A state gambling license, finding of suitability, or approval granted by the Commission, other than a work permit, and an owner license for a gambling establishment if the owner licensee has committed a separate violation from any violations committed by the gambling establishment shall be subject to revocation by the Commission on any of the following grounds:

(1) If the Commission finds the holder to have been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure,

(2) If the Commission finds the holder to have engaged in or committed a prohibited act specified in Business and Professions Code section 19863 (no more than one gambling establishment at racetrack),

(3) If the Commission finds the holder no longer meets any criterion for eligibility, qualification, suitability or continued operation, including those set forth in Business and Professions code sections 19857, 19858, or 19880, as applicable, or

(4) If the Commission finds the holder currently meets any of the criteria for mandatory denial of an application set forth in Business and Professions Code sections 19859 or 19860.

NOTE: Authority: Sections 19825, 19840, 19841 and 19930, Business and Professions Code. Reference: Sections 19823, 19824, 19827, 19857, 19858, 19859, 19860, 19863, 19878, 19880, 19922, 19923, 19924, 19930, 19942 and 19944, Business and Professions Code.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).
2. Change without regulatory effect amending subsections (a), (a)(6)-(b), (b)(2)-(3), (b)(7)-(8) and (b)(10) filed 8-8-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

§ 12572. Precedential Decisions.

Pursuant to Government Code section 11425.60, the Commission, at a noticed Commission meeting, may:

(a) Designate all or part of any of the following as a precedential decision:

(1) An adopted final decision, or

(2) An adopted stipulated decision pursuant to a settlement agreement.

(b) Reverse in whole or in part the prior designation of a decision as a precedential decision.

NOTE: Authority: Section 19840, Business and Professions Code. Reference: Section 19930, Business and Professions Code; and Section 11425.60, Government Code.

HISTORY

1. New section filed 2-8-2007; operative 3-10-2007 (Register 2007, No. 6).

Appendix A

Summary Chart of Disciplinary Guidelines

This is a summary — please refer to the regulatory text for a full explanation. In case of any conflicts, the regulatory text will prevail. Minimum and Maximum penalties may be affected by factors in mitigation or aggravation, pursuant to regulation 12556. If not otherwise listed, penalties may be stayed on the imposition of terms, conditions, or fines at the Commission's discretion, pursuant to regulation 12554, subsection (d).

Legend:

GGR = Average Daily Gross Gaming Revenue

TPPPPS = Third-Party Providers of Proposition Player Services

<i>Type of Offense</i>	<i>Type of License</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>	<i>Regulation Reference (4 CCR)</i>
Adequate Financing				
	Gambling Establishment	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(2), stay 12566(b); 12566(c)(4)
Badge Violations				
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(5)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(5)
Bribery				
	TPPPPS – Owner	5 days	Revocation	12560(b)(17)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(6)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(11)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(6)
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(9)
Campaign Finance violation				
	TPPPPS — Owner	5 days	Revocation	12560(b)(5)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(5)
	Gambling Establishment	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(9), stay 12566(b); 12566(c)(12)
Cheating				
	TPPPPS — Owner	5 days	Revocation	12560(b)(9), (13)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(2)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(7)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(2)
Conviction — law related to gambling				
	Gambling License, Finding of Suitability, Approval (not work permit)	1 day or 5 days	Revocation	12568(a)(2), (3); 12568(b)(12),(13)
Conviction – Moral Turpitude Crimes				
	TPPPPS — Owner or Employee	Revocation	Revocation	12560(e)(1)
	Gambling Business – Owner	Revocation	Revocation	12562(e)(1)
	Gambling Business – Employee	Revocation	Revocation	12562(e)(1)
Dishonest controlled gaming activities				
	TPPPPS – Owner	5 days	Revocation	12560(b)(4)
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(2)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(4)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(2)
	Gambling License, Finding of Suitability, Approval (not work permit)	1 day	Revocation	12568(a)(4)
Extortion				
	TPPPPS – Owner	5 days	Revocation	12560(b)(14)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(3)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(8)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(3)
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(5)
Failure to Pay Fees				
	TPPPPS — Owner (Annual Fees)	5 days	Revocation	12560(b)(6)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(6)
	Gambling Establishment	5 days	Revocation	12566(c)(11)

<i>Type of Offense</i>	<i>Type of License</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>	<i>Regulation Reference (4 CCR)</i>
Fighting				
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(6)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(6)
Loan-sharking				
	TPPPPS – Owner	5 days	Revocation	12560(b)(15)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(4)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(9)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(4)
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(6)
Misrepresenting material fact on application				
	TPPPPS – Owner	5 days	Revocation	12560(b)(3)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(1)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(3)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(1)
	Gambling Establishment	5 days	Revocation	12566(c)(3)
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(1)
Money Laundering				
	TPPPPS – Owner	5 days	Revocation	12560(b)(18)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(7)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(12)
	Gambling Business – Employee	5 days	Revocation	
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(10)
Narcotics				
	TPPPPS – Owner	5 days	Revocation	12560(b)(16)
	TPPPPS – Employee	\$300 and/or 5 days	Revocation	12560(d)(5)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(10)
	Gambling Business – Employee	\$300 and/or 5 days	Revocation	12562(d)(5)
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(7)
Non-Qualification				
	Work Permittee	3 days	Revocation	12558(b)
	TPPPPS – Owner	Revocation	Revocation	12560(e)(1),(2)
	TPPPPS – Employee	Revocation	Revocation	12560(e)(1),(2)
	Gambling Business – Owner	Revocation	Revocation	12562(e)(1), (2)
	Gambling Business – Employee	Revocation	Revocation	12562(e)(1), (2)
	Gambling License, Finding of Suitability, Approval (not work permit)	Revocation	Revocation	12568(c)(1), (3), (4)
Property Damage				
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(7)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(7)
Tips				
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(8)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(8)
Unauthorized Practice				
	TPPPPS — Owner (12200)	5 Days	Revocation	12560(b)(22)
	Gambling Business— Owner (12220)	\$2500 and/or 5 days	Revocation	12562(b)(13)
	Gambling Establishment	5 days	Revocation	12566(c)(5)
Unsuitable Gaming Activities				
	Gambling Establishment	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(14), stay 12566(b); 12566(c)(17)
Violation of Gambling Control Act				
	Work Permittee – 19914	3 days	Revocation	12558(a)
	Gambling Establishment — 19850, 19851, 19853, 19854, 19855, 19883, 19901 (ownership/key)	5 days	Revocation	12566(c)(6)
	Gambling Establishment — 19878	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(5), stay 12566(b); 12566(c)(7)

<i>Type of Offense</i>	<i>Type of License</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>	<i>Regulation Reference (4 CCR)</i>
	Gambling Establishment — 19912 (work permit)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(6), stay 12566(b); 12566(c)(8)
	Gambling Establishment — 19921 (failure to exclude)	5 days	Revocation	12566(c)(9)
	Gambling Establishment — 19924 (security controls)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(8), stay 12566(b); 12566(c)(10)
	Gambling Establishment — 19941 (under 21)	5 days	Revocation	12566(c)(9)
	Gambling License, Finding of Suitability, Approval (not work permit) — 19817 (untruthful)	5 days	Revocation	12568(b)(2)
	Gambling License, Finding of Suitability, Approval (not work permit) — 19944 (interference)	5 days	Revocation	12568(b)(3)
	Gambling License, Finding of Suitability, Approval (not work permit) — 19863 (racetrack)	Revocation	Revocation	12568(c)(2)
Violation of Chapter 9 and 10 of Penal Code				
	Gambling License, Finding of Suitability, Approval (not work permit)	5 days	Revocation	12568(b)(4)
Violation of any gambling law				
	TPPPPS — Owner	5 days	Revocation	12560(b)(2)
	Gambling Business – Owner	\$2500 and/or 5 days	Revocation	12562(b)(2)
	Gambling Establishment	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(1), stay 12566(b); 12566(c)(2)
	Gambling License, Finding of Suitability, Approval (not work permit)	1 day; 5 days	Revocation	12568(a)(2), (3); 12568(b)(12), (13)
Violation of law — nexus				
	TPPPPS – Employee	\$100 and/or 3 days	Revocation	12560(c)(3)
	Gambling Business – Employee	\$100 and/or 3 days	Revocation	12562(c)(3)
	Gambling License, Finding of Suitability, Approval (not work permit) — crime of fiscal dishonesty	1 day; 5 days	Revocation	12568(b)(11)
Violation of Regulations				
	Work Permittee	3 days	Revocation	12558(d)
	TPPPPS — Owner (12200.7(b)(9), (11), (15), (18), (19), (21), (22), or (c), or 12200.9)	5 days	Revocation	12560(b)(7)–(12), (19)
	TPPPPS — Owner (12200.13, or 12200.18 (a), (b), (d), (e), (f), (i), (j), (l), (m), or (n))	5 days	Revocation	12560(b)(20), (21)
	TPPPPS – Employee (12220.18 and 12200.21)	\$100 and/or 3 days	Revocation	12560(c)(8), (9)
	TPPPPS — Employee (12200.7, 12200.18(b), (c), (d), (f), (g), (h), (i), (j), or (k))	\$300 and/or 5 days	Revocation	12560(d)(8), (9)
	Gambling Business – Owner (12220.18 a, b, d, e, f, l, m)	\$2500 and/or 5 days	Revocation	12562(b)(14)
	Gambling Business – Employee (12220.18 and 12200.21)	\$100 and/or 3 days	Revocation	12562(c)(9), (10)
	Gambling Business – Employee (12220.18 c, d, f, g, h, i, j, k)	\$300 and/or 5 days	Revocation	12562(d)(8)
	Manufacturers or Distributors (12303(b))	Suspension	Revocation	12564
	Gambling Establishment (Accounting Regs)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(10), (11), stay 12566(b); 12566(c)(13), (14)
	Gambling Establishment — 11 CCR 2050 (Key on premises)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(12); stay 12566(b); 12566(c)(15)
	Gambling Establishment — 11 CCR 2052 (Failure to furnish information)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(13); stay 12566(b); 12566(c)(16)
	Gambling Establishment — 11 CCR 2070 (unsuitable gaming activities)	1 day/stay @ 25% GGR; or 5 days	30 days/stay @ 25% GGR; or Revocation	12566(b)(14); stay 12566(b); 12566(c)(17)
Violation of Act, Regulations or Ordinances, or mandatory duties not listed				
	TPPPPS — Owner	1 day, stay	1 day	12560(a)
	Gambling Business – Owner	1 day, stay	1 day	12562(a)
	Gambling Establishment	1 day, stayed on monetary penalty	1 day	12566(a)

Type of Offense	Type of License	Minimum Penalty	Maximum Penalty	Regulation Reference (4 CCR)
Violation of Conditions				
	Work Permittee	3 days	Revocation	12558(c)
	TPPPPS — Owner	5 days	Revocation	12560(b)(1)
	TPPPPS — Employee	\$100 and/or 3 days	Revocation	12560(c)(1)
	Gambling Business — Owner	\$2500 and/or 5 days	Revocation	12562(b)(1)
	Gambling Business — Employee	\$100 and/or 3 days	Revocation	12562(c)(1)
	Gambling Establishment	5 days	Revocation	12566(c)(1)
	Gambling License, Finding of Suitability, Approval (not work permit)	1 days	Revocation	12568(a)(1)
Conduct inimical				
	TPPPPS — Employee	\$100 and/or 3 days	Revocation	12560(c)(4)
	Gambling Business — Employee	\$100 and/or 3 days	Revocation	12562(c)(4)
	Gambling License, Finding of Suitability, Approval (not work permit)	1 day	Revocation	12568(a)(6)
	Gambling License — Owner Licensee (not taking reasonable steps to prevent crimes)	5 days	Revocation	12568(b)(8)

HISTORY

1. New appendix A filed 2–8–2007; operative 3–10–2007 (Register 2007, No. 6).

Chapter 11. Conflict of Interest Code

§ 12590. Conflict of Interest Code.

The Political Reform Act (Government Code section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 California Code of Regulations Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code, and which may be amended by the FPPC, to conform to amendments in the Political Reform Act, after public notice and hearings. The terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the FPPC, along with the attached Appendix A, in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Gambling Control Commission ("Commission").

Designated employees shall file statements of economic interest with the FPPC filing officer in the Commission who will make the statements available for inspection and reproduction. With respect to the Commissioners, and the Executive Director of the Commission, the Commission shall make and retain a copy and forward the original of these statements to the FPPC.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300 and 87302, Government Code.

HISTORY

1. New article 7 (section 12590) and section and Appendix A filed 1–31–2007; operative 3–2–2007. Approved by Fair Political Practices Commission 1–8–2007 (Register 2007, No. 5). Its prior citation was title 2, division 8, chapter 95, section 58400, California Code of Regulations.
2. Editorial correction renumbering chapter 6, article 7 to chapter 11 (Register 2007, No. 6).
3. Editorial correction replacing short form with full text of conflict of interest code (Register 2007, No. 7).
4. Change without regulatory effect amending first paragraph filed 8–8–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 32).

Appendix

List of Designated Positions
Commissioners
Commissioners

Assigned
Disclosure Categories

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List of Designated Positions

Assigned
Disclosure Categories

Executive Administration	
Executive Director	1
Deputy Executive Director	1
Staff Management Auditor	1
Executive Assistant	2
Legal Division	
Chief Counsel	1
Staff Counsel III	1
Staff Counsel	1
Associate Governmental Program Analyst	2, 4
Staff Services Analyst	2, 4
Legislative & Public Affairs Office	
Deputy Director	1
Associate Governmental Program Analyst	2
Staff Services Analyst	2
Support Services	
Deputy Director	1
Staff Services Manager I	1
Senior Programmer Analyst	2, 3
Systems Software Specialist I	2, 3
Associate Governmental Program Analyst	2, 4
Staff Services Analyst	2, 4
Senior Accounting Officer	2, 4
Associate Budget Analyst	4
Associate Information System Analyst (Specialist)	2, 3
Associate Personnel Analyst	4
Licensing Division	
Deputy Director	1
Staff Services Manager I	1
Associate Governmental Program Analyst	2
Staff Services Analyst	2
Management Services Technician	2
Compliance Division	
Deputy Director	1
Senior Management Auditor	1
Staff Management Auditor	2
Associate Management Auditor	2
Staff Services Management Auditor	2
Management Service Technician	2
Associate Information System Analyst (Specialist)	2, 3
Consultants	
Consultant	

Disclosure Category 1

Full disclosure is required. Any officer, employee, or consultant in this category shall disclose all interest in real property in the State of California, as well as investments, business positions, and sources or income, including gifts and travel payments.

Disclosure Category 2

Any officer, employee, or consultant in this category shall disclose investments, business positions, and sources of income including gifts and travel payments, from any manufacturer or distributor of gambling equipment; holder of a finding of suitability issued pursuant to a tribal-state compact; Indian tribe; holder of a state gambling license (including

a key employee of a gambling establishment); holder of a work permit; applicant for a state gambling license; applicant for a work permit; applicant for licensure as a third-party provider of proposition player services; applicant for registration as a third-party provider of proposition player services; applicant for registration as a manufacturer or distributor of gambling equipment; applicant for finding of suitability under a tribal-state compact; or applicant for any other license, permit or approval provided for in the Gambling Control Act, any regulation adopted pursuant to the Gambling Control Act, or any tribal-state compact. Any person in this category shall also disclose any interest in real property in the State of California.

Disclosure Category 3

A designated employee in this category shall report all investments, business positions, and income, including gifts, loans, and travel payments, from sources that provide information technology systems including: hardware, software, equipment, or consulting services, of the type utilized at the Commission.

Disclosure Category 4

A designated employee in the category shall report all investments, business positions and income, including gifts, loans and travel payments, from sources that provides or provided within the previous two years services, supplies, equipment, vehicles, machinery, leased facilities, including training or consulting services, of the type utilized by the Commission.

Consultant Disclosure Category

Consultants shall be placed in disclosure category 1, subject to the following limitation: the Executive Director may determine in writing that a particular consultant although a "designated position", has been hired to perform a range of duties that is limited in scope and, thus, is not required to fully comply with the disclosure requirements in this Code. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director's determination is a public record and shall be retained for public inspection in the same manner and locations as this Conflict of Interest Code.

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